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*American  
Foreign Policy  
and the Separation  
of Powers*





and H. FIELD HAVILAND, JR., *Haverford College*

1952

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*To Our Parents*

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It will be obvious from the text that we owe a great deal to many others—scholars, public officials and friends. The book as it stands, however, is our sole responsibility.

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D. S. C.

H. F. H., Jr.

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## Foreword

*I can think of* few problems of more immediate and fundamental importance than the relations between Congress and the Executive in the conduct of foreign affairs. Mr. Cheever and Mr. Haviland seem to me to have made an important contribution to the study of these problems in this book.

When James G. Rogers and I served as the Task Force Committee on Foreign Affairs of the so-called "Hoover Commission," we devoted a substantial part of our attention to some of the questions dealt with in this book. Mr. Cheever and Mr. Haviland as members of our staff concentrated on these and were of great assistance to us. We confined ourselves to the organization of the Executive Branch, but the deeper we got into the problem of administering our foreign policy in the Executive Branch the more did it become obvious that there was the much broader problem of the organization, authority and political responsibility of both the Executive Branch and the Congress under the separation of powers provided for by the Constitution. The solution of this broader problem discussed in this book is extraordinarily difficult and, as the authors point out, depends more on a change in the point of view of both the members of Congress and officers of the Executive Department, and in fact of public opinion in the United States, toward cooperation than on any specific changes in organizational structure. The nature and difficulty of the problem are more clearly apparent the more one studies the historical examples of the relationship and cooperation or lack of cooperation between Congress and the Executive in our national history. The authors have made a careful collection and

presentation of the facts with dramatic examples of success and failure.

It would be well if this book were read by all members of Congress and all executive officers of the State Department as well as of those other departments which are now vitally interested in foreign affairs.

Opinions may differ as to the various specific suggestions which the authors make for improvement in the constitutional and statutory provisions affecting the conduct of foreign affairs and changes in the organizational structure of the branches of government which could be made without legislation. Some of their suggested changes would in my judgment result in a material improvement in the present situation. Although I do not agree with all of the authors' suggestions, I believe that no one can read this book without a much better understanding of the past and the present situation and a clearer appreciation of the vital need for teamwork in the field of foreign affairs if the United States is to speak with a clear and steady voice in carrying out its great international responsibilities.

Harvey H. Bundy

## CHAPTER ONE

# *Introduction*

*This book* is neither a diplomatic history of the United States nor a systematic study of current foreign policy. It is rather an analysis of one aspect of foreign-policy formulation in the United States—probably the most crucial aspect in our era.

A glance at today's headlines gives ample evidence that the weakest and most critical link in the process of making United States foreign policy is the relation between the White House and Capitol Hill. A single recent copy of a metropolitan daily newspaper revealed the familiar executive-legislative tug of war on such central issues as the terms of settlement in the Korean situation, the "Kem amendment" forbidding aid to countries exporting strategic materials to the Soviet sphere, an alliance with Spain, appropriations for military bases, the United Nations Human Rights Convention, and technical assistance for the Near East. Because the executive and legislative branches have so frequently pulled in opposite directions on these and other important matters, it has been extremely difficult to formulate sound national policies to deal with them.

While the present world situation has fanned the flames of these controversies higher than ever before, this is by no means a new issue. The "Father of our Country" was the first President to burn his fingers in dealing with an independent Congress on foreign-policy questions, and many succeeding Presidents have suffered the same misfortune. It was the Versailles Treaty incident, however, that publicized the issue so dramatically that the entire nation became concerned. Since that time some commentators have implied that the problem is no longer a dangerous one because of the increas-

ing use of executive agreements in place of treaties, the promotion of bipartisanship, and the general improvement of executive-legislative relations as demonstrated in the overwhelming senatorial approval of the United Nations Charter and the North Atlantic Treaty.

Yet bipartisanship has not been strong enough to provide effective coöperation on our Far Eastern problems, much of our foreign-aid program, and other key issues. Indeed the division of authority between the President and Congress on foreign-policy questions promises to be an election issue in 1952. If one analyzes the birth pangs of the major foreign-affairs developments since World War II, moreover, it becomes apparent that executive-legislative relations on these issues have been far from satisfactory. The boundary between the two political branches has been the scene of serious skirmishes that have had many unfortunate effects upon United States relations with the rest of the world.

Why is this problem so crucially important in the field of foreign policy? The answer is that the very survival of the United States and of the free world is at stake. Whether we shall have peace, war, or half war in the years ahead depends upon the foreign policies of many states, but the decision rests primarily with two world powers, the Soviet Union and the United States. A heavy responsibility, therefore, rests with the American people and its system of government. To an extent greater than ever before world peace stands or falls with American foreign policy.

In some matters, such as the establishment of the European Recovery Program and the United Nations, the President and Congress were able to work together with considerable effectiveness. In other matters, however, such as Far Eastern policy, our friends and our enemies have been treated to an extraordinary spectacle in which the two branches have seemed to throw all reason and restraint to the winds and to engage in open and uncompromising warfare. On the matter of committing American troops to United Nations forces combating aggression in Korea or to an integrated force in Europe under a Supreme Commander, only the Communists could have derived comfort from the contradictory assertions of authority

made by the President and some members of the Congress. While the State Department was urging other nations to join the International Trade Organization in 1947, Congress gave special protection to the American wool industry. The most deplorable aspect of this situation is that at a time when the very survival of the free world depends upon positive and consistent United States leadership, constant interbranch conflict has seriously crippled that leadership. Criticism of foreign policy must not be stifled, but narrowly partisan executive-legislative sniping, which is encouraged by our system of government, should be avoided.

*Why Interbranch Collaboration Is Essential*

Today the task of legislative-executive coöperation is extraordinarily different from anything we have known before, for several reasons.

The first point to be emphasized is that the conflict between the Soviet and the free world, which is the major threat to international peace, is a war that is neither "hot" nor "cold," but something in between. The distinction between "war" and "peace" has been all but obliterated. Nor does the struggle show any signs of subsiding in the near future. This situation has thrown the Constitution out of joint by upsetting the traditional balance between the two branches. The executive branch must continue to wield on a more or less permanent basis many emergency powers which in the past have been considered to be of a temporary nature. To do this, however, the President clearly needs the full and continuing support of the Congress.

The second element is the fact that the United States, because of its predominant economic-military position, is the acknowledged leader of the free world. This means that the United States is called upon more frequently than ever before to make decisions of crucial international significance which often necessitate treaties or legislation requiring Congressional approval. If the United States is to be a dependable leader, its policies must be consistent and stable. Alliances are always difficult to maintain, but the American separa-



tion of powers makes the task trebly difficult. Coalitions such as the Unified Command in Korea or the North Atlantic Treaty Organization depend upon mutual confidence. Confidence among allies requires consistency of purpose on the part of each. Yet our system of government, which constantly encourages dissension between the branches, is a serious threat to consistency.

A third factor is that "price tags" are frequently attached to our international commitments—heavy demands for American men and materials that must be approved by Congress. Thus the House, with its special authority regarding appropriations and legislation, is fast becoming the equal of the Senate in the foreign-affairs field. Furthermore, foreign-policy decisions have direct domestic repercussions in matters such as armaments production, price control, and compulsory military service. While there is a distinction between foreign and domestic issues because they deal largely with different geographic areas, governments, and peoples, it is also true that there is no clear line between them in the sense that foreign and domestic policies constantly overlap and affect each other.

A fourth factor is the increasing complexity of international problems that makes legislative-executive teamwork difficult indeed. It is hard at best to obtain accurate information about such problems as Italian land reform, China's "New Democracy," and the Argentine "descamisados" movement. Although the executive branch, with its thousands of research and analyst personnel, is far better equipped to seek out and assimilate this information than is Congress, it still finds it extremely difficult to keep abreast of the movement of international events. And even when it is able to get the facts and analyze them correctly, it finds it almost as difficult to disseminate them to the Congress and to the public at large. The major reasons for this are: an all-too-prevalent mutual distrust between the legislative and executive branches; the difficult nature of the issues involved; the tremendous volume of the information; and the necessity for security regulations to protect our friends and confound our enemies. Yet to cope with this problem of complexity the two branches must work together.

Finally there is the factor of time—or the lack of it. The North Korean attack of June 25, 1950 demonstrated the challenge that faces us in this respect. Such sneak tactics require immediate action. While the Chief Executive may instantly order defensive measures, he cannot even initiate such action nor can he maintain it without the troops and equipment which the legislature must give him. Yet winning such support is a frustrating and time-consuming process which is fast falling behind the pace of international events.

In sum, it seems abundantly clear that the United States cannot assume the heavy responsibilities in world affairs that have been thrust upon its unsuspecting and reluctant shoulders without improved relations between the legislative and executive branches. This is not to say that it is feasible at this time to think in terms of fundamental constitutional reform. It is to say that a thorough examination and adjustment of traditional procedures and attitudes within our constitutional framework is in order.

These issues establish the general environment in which this problem must be considered. Chapters II and III deal with the constitutional and administrative framework of our government most closely related to foreign-policy questions. Chapters IV through XII present case material analyzing executive-legislative relations on external issues from the founding of our country to the present, with special emphasis on post-World War II problems. This case approach would seem to be peculiarly useful since it helps us to take advantage of experience and to think in terms of actual rather than hypothetical, whole rather than fragmented, situations. Thus it provides us with a wealth of comparative data that suggest certain conclusions and recommendations which are discussed in Chapters XIII and XIV.

## CHAPTER TWO

# *The Constitutional Framework*

*The most striking feature* of the American system of government to many observers is the division of control between the legislative and executive branches of government in foreign and domestic affairs alike. Such compensating factors as dependable party discipline and clear majority control of both branches to bridge the gap are noticeable by their absence in comparison with the parliamentary forms of government such as that of Britain.

One consequence of our system of checks and balances is that the United States sometimes speaks with more than one voice in world affairs, to the confusion of friends and enemies alike. No one can be entirely certain just how the authority is divided between the President and Congress. Professor Corwin's remark that "the Constitution is an invitation to struggle for the privilege of directing American foreign policy"<sup>1</sup> hits the nail on the head. Although Thomas Jefferson, as Secretary of State, advised President Washington that "the transaction of business with foreign nations is executive altogether,"<sup>2</sup> the influence of the executive branch has not been consistently dominant. The three great wars since 1860 demonstrate a recurring pattern of strong executive authority in war, followed by a strong counter-assertion of legislative authority.

The President and his Secretaries of State have found since World War II that they cannot shoulder their foreign-affairs task without the constant support of Congress. Congress, in turn, finds that most of its legislative acts affect some aspect of foreign policy. The reason is not hard to find, for, to a degree greater than ever



before, foreign and domestic policies are two sides of a single coin. When men, money, and materials are crucial elements in foreign policy, the House and Senate exercise significant control. Circumstances, therefore, require collaboration between the two branches of government to a degree that is unprecedented in American history. Joint legislative-executive coöperation in the conduct of foreign affairs not only is demanded by these practical circumstances but also follows from our constitutional development.

### *Executive Predominance*

Some commentators have constructed a doctrine of executive predominance in foreign relations. Convincing evidence for this can be found in the wide powers granted the President in the Constitution. He is the chief executive of the Federal Government, commander in chief of the armed forces, has the power with senatorial advice and consent to make treaties, and may nominate and receive ambassadors and other public officers. In addition, he has in practice recognized new governments and states, has sent personal agents abroad and has negotiated executive agreements. As commander in chief, he has established and directed military governments in enemy territory. Though commander in chief, however, he cannot declare war without Congress or enter a treaty of peace without the Senate. Although he may dispatch troops all over the world, he cannot raise an army, navy, or air force without congressional authorization. While independent of Congress and responsible to the electorate in the sense of being elected independently for a fixed term of office, he is also responsible to Congress through the impeachment process.

The advantages the President enjoys in the conduct of foreign affairs were suggested in the sixty-fourth paper of *The Federalist* by John Jay, who, as Secretary for Foreign Affairs, chafed at the weakness of Congressional government under the Articles of Confederation.<sup>3</sup> These advantages included the unity of the presidential office, its capacity for secrecy and haste, and its superior sources of information. The treaty-making power in Jay's view was an important one and should be so delegated "as will afford the highest

security that it will be exercised by men the best qualified for the purpose, and in the manner most conducive to the public good." These standards would be attained under the Constitution, he noted, because the treaty power would be exercised by a president chosen by the electors and by senators chosen by state legislatures, bodies "composed of the most enlightened and respectable citizens." Foreign affairs, in the Founding Fathers' view, were too crucial and required too great a degree of knowledge and experience to be subject to the hazards of control by popular assemblies.

The members of the Convention of 1787 were familiar with contemporary European governments, especially that of Great Britain, in which the executive controlled foreign relations. Even after the responsibility of the Cabinet to Parliament became established at the close of the eighteenth century, foreign affairs were managed throughout the nineteenth century and even to the present day with rather less Parliamentary scrutiny than in the case of internal affairs.

Although the treaty-making power was first given to the Senate by the Convention, it was finally placed in the section of the Constitution dealing with the executive power after the office of President had been added. The restrictions placed upon the President's exercise of that function in the making of treaties developed largely from the fear of the southern states of a treaty that might close the Mississippi, of the New England states of interference with their fishing rights, and of the small states in general who felt that a requirement of the concurrence of two-thirds of the Senate was necessary to protect their interests. Finally, the Framers were fearful of an executive possessing unchecked powers.<sup>4</sup>

In practice, however, Presidents have increasingly resorted to the use of executive agreements in place of treaties, a development that has been supported by the Supreme Court. While the President's power in concluding treaties is limited by the role of the Senate, he has a free hand in executive agreements unless supporting legislation is necessary.

A treaty itself, under Article VI of the Constitution, is the "supreme law of the land" thereby enjoying a status equal to federal

statutes. Treaties are executed by government officials and are enforceable in the courts. In a number of cases, moreover, the Supreme Court has held that executive agreements have a similar authority. Both treaties and executive agreements, of course, can be effectively nullified by act of Congress. In *B. Altman and Co. v. the United States*<sup>5</sup> the Supreme Court held that although a commercial agreement, made under the Tariff Act of 1897, "was not a treaty possessing the dignity of one requiring a ratification by the Senate of the United States, it was an international compact, negotiated between the representatives of two countries, and dealing with important commercial relations between the two countries, and was proclaimed by the President." For limited purposes the commercial agreement was a treaty, and under the Circuit Court of Appeals Act of 1891, there was "right of review by direct appeal to the Supreme Court."

In two recent decisions the Court has held that an executive agreement, like a treaty, is the supreme law of the land. In *United States v. Belmont*<sup>6</sup> the Court upheld the validity of an international executive agreement, the Litvinov Assignment, in which the Soviet Union assigned to the United States, in liquidation of the latter's claims, certain bank deposits in New York, which the former had confiscated from a Czarist Russian corporation. The agreement was valid regardless of any state policy that might be involved. The foreign-relations power was found to reside solely in the national government and not in the states, and the President was declared to have "authority to speak as the sole organ of that government." In *United States v. Pink*<sup>7</sup> the Court, noting that a treaty is a "law of the land," declared that the Litvinov Assignment, although an executive agreement, bore a "similar dignity."

The Supreme Court has also upheld, in the Curtiss-Wright Case,<sup>8</sup> the Congressional delegation to the President of authority to prohibit the sale of arms and ammunition to countries engaged in the Chaco conflict. The Court went further and supported the President's exercise of authority on the grounds of the "exclusive power of the President as the sole organ of the Federal Government in the

field of international relations—a power which does not require as a basis for its exercise an act of Congress, but which of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.” In the same case the Court also held that “the investment of the Federal Government with powers of external sovereignty did not depend on the affirmative grant of the Constitution” and that the United States may bind itself internationally by means other than treaties requiring the consent of the Senate. These developments have sustained a broad exercise of executive authority in foreign affairs.

The Supreme Court has also sustained the power of the federal government over that of the states so that the former might accomplish by treaty and legislation what it could not accomplish by direct legislation alone.<sup>9</sup> In sustaining the right of the national government to coöperate with other governments in protecting migratory birds, the Court dismissed the Tenth Amendment, setting forth the “reserved powers” of the States, as a test of the constitutionality of treaties. Treaties, in contrast to Acts of Congress, are to be declared the “supreme law of the land” so long as they are concluded “under the authority of the United States.” Thus the federal system raises few difficulties for the conduct of foreign policy, although it has been advanced by the State Department as a reason for declining to undertake such international commitments as the Geneva Conventions of 1910 and 1921 concerning the traffic in women and children.<sup>10</sup>

The role of the judiciary will also be important in determining the extent and nature of the obligations arising under the Charter of the United Nations. Will the Supreme Court sustain the recent California decision in *Sei Fugii v. California* that the Alien Land Law of California must yield to the Charter of the United Nations as the “superior authority”? Is the Charter a “self-executing treaty”?<sup>11</sup> These questions await the decision of the Supreme Court.

President Washington, Chairman of the Constitutional Convention of 1787, seems to have considered the foreign-relations power generally to be an executive function. He first proceeded on the



assumption that the Senate was a council of advice in the making of treaties. By receiving Citizen Genêt he recognized the new French Republic, and on his own authority he issued a proclamation of neutrality in 1793 during the struggle between Britain and France. On both points the Constitution is silent. The precedent in regard to recognition has been consistently followed, although the Senate Foreign Relations Committee was assured by the Secretary of State in July 1949 that no steps to recognize the People's Republic in China would be taken by the executive branch without consultation with the Committee.

The first neutrality proclamation was attacked by the Jeffersonians, notably Madison, as a usurpation of authority by the executive. Hamilton, writing under the name of "Pacificus," supported the executive character of the proclamation. Exceptions to the general executive power, such as the participation of the Senate in the making of treaties, "are to be construed strictly," he wrote. Congress, however, effectively tied the hands of the President by the passage of the neutrality laws in the years prior to World War II.

While constitutional arguments may not seem really important in view of the job to be done, they have been advanced by apologists of both branches. When Theodore Roosevelt, for example, negotiated the Algeciras Convention in 1906 through personal agents rather than public officers appointed with the consent of the Senate, he was defended in a debate on the floor by Senator Spooner, who said that the Senate had no right to invade the prerogative of the President to negotiate treaties. Senator Bacon, in opposition, asserted the legislative nature of the foreign-relations power.

There can be little doubt that there are strong arguments in substantiation of a theory of executive predominance in foreign relations. Nevertheless, both the Constitution and actual practice make it clear that the President does not have sufficient authority to control foreign policy without regard to the wishes of the legislative branch. In many matters he has no choice but to work with Congress. In fact, some writers support a theory of legislative predominance.

*Legislative Predominance*

Article I, Section 8, Paragraph 18 of the Constitution gives Congress the power

to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

In addition, Congress has the power to regulate foreign commerce, to establish uniform rules of naturalization, to declare war, to raise and support an army, and to establish rules and regulations for the armed forces. Territory has been acquired by joint resolution, a power specifically denied the President by the Supreme Court.<sup>12</sup> The Senate plays an especially important role in the establishment of foreign policy because of its part in the treaty procedure. It must also approve both the appointment of ambassadors and other public officers and the commissions of officers in the armed forces. The House, in its turn, plays a key role since it controls the origin of appropriations bills. The legislative "power of the purse" is now as important a check on executive authority in foreign affairs as it is in domestic affairs. It is important to note that no appropriation of money can be made for the army for a period longer than two years. Congress, in short, has considerable control over the principal instruments of foreign policy. With the possible exception of France, no other important nation, in fact, has assigned to the legislative branch such power over foreign relations. In Laski's view, "No legislative assembly in the world rivals the Senate . . . in its influence in the international sphere."<sup>13</sup>

The role of the legislative branch may in part be explained by the fact that during the Revolution the Continental Congress was responsible for the foreign relations of the Thirteen Colonies and in part by the compromise in 1787 that brought about the federal system. Under the Articles of Confederation, Congress, as both legislature and executive, continued to be responsible for the conduct of foreign affairs. The lack of a separate executive authority may be

explained largely by the experience of the Thirteen Colonies under their royal governors. In 1775 foreign policy was determined for the colonies by a Committee of Secret Correspondence, which in 1777 was designated as the Committee on Foreign Affairs. In 1776 a committee on treaty-making was established, and in 1778 the Continental Congress selected negotiators to draw up a treaty with France, which it then ratified after amendments. In 1781 a permanent Department of Foreign Affairs was created and placed under the direction of a Secretary of Foreign Affairs.

Congress continued to serve in a quasi-executive capacity until the Constitution was ratified in 1789. Treaties required the consent of nine of the thirteen states, and several were entered into, including the Treaty of Peace with England.

At the opening of the Constitutional Convention of 1787 in Philadelphia, treaty-making continued to be thought of as a legislative function, although there was division of opinion as to whether Congress as a whole should be assigned the duties of carrying on foreign affairs. The first draft of the Constitution, following the adoption of the compromise that gave the States equal representation in the Senate and representation according to population in the House, gave the Senate the power to make treaties and to appoint ambassadors and judges of the Supreme Court. It was immediately challenged by Madison, Morris, and other representatives of the larger states, who wished to reduce the power of the Senate in favor of the House and President.

The small-states men refused to place the treaty-making power exclusively in the hands of the executive, while the large-states men did not want the Senate alone to have the treaty-making power. The result was a compromise which reverted in part to the earlier plan submitted by Hamilton whereby treaties would be made by the supreme executive authority "with the advice and approbation of the Senate."<sup>14</sup> Participation by the House in the treaty-making procedure was rejected on the grounds that secrecy was required in the negotiation of treaties and that the short terms of representatives would not give them sufficient experience in foreign matters. Jay,

it was noted above, favored the Senate in the treaty-making procedure because it was to be composed of members chosen by state legislatures.

It appears that the Constitutional Convention intended to give the Senate a share in the formulation of foreign policy and in the drafting of treaties as a sort of advisory council to the President. Senator Henry Cabot Lodge, writing before the popular election of Senators was instituted, maintained that the Convention of 1787 did not depart from the practice under the Articles of Confederation and that treaty-making was never intended to be "an executive function." Relations with other states were to be "exclusively managed and controlled by representatives of the States, as such, in the Senate." Consequently he argued that the Senate was empowered to modify the Hay-Pauncefote Treaty of 1900, declaring that a signed treaty is a "mere project for a treaty, until the consent of the Senate had been given to it," and that the Senate "could properly continue the negotiations begun by Mr. Hay and Lord Pauncefote."\*

The Framers themselves disagreed on the nature of the foreign-relations power. Madison and Jefferson (the latter not present at Philadelphia) denounced Hamilton's theory that it was essentially executive in nature. Writing under the name of "Helvidius," Madison denied that Washington had the authority to issue the proclamation of neutrality of 1793, noting that the Constitution vested the war power in Congress and gave the Senate a share in the making of treaties which were the "supreme law of the land."

\* H. C. Lodge, "The Treaty Making Powers of the Senate," in *A Fighting Frigate and Other Essays and Addresses* (New York, 1902), p. 223. Lodge, however, like other political leaders such as Hamilton and Jefferson, did not hesitate to modify his views or change his emphasis when circumstances warranted a different expression of constitutional opinion. When it appeared that senatorial opposition to Theodore Roosevelt's Dominican policy might injure the Republican party and the prestige of both a Republican President and a warm friend, he declared: "No one, I think, can doubt the absolute power of the President to initiate and carry on all negotiations . . . There is no doubt that the Senate can by resolution advise the President to refrain from a negotiation; but those resolutions have no binding force whatsoever . . . It is a mere invasion of the powers and rights of the President if we are to plunge in at a stage of the negotiations where we have no business whatever and demand from him the instructions which he has given to his properly appointed representatives." W. S. Holt, *Treaties Defeated by the Senate*, p. 226.



Although Madison lost the argument on neutrality, Congress may initiate foreign policy in other ways. For example, it may pass resolutions requesting the executive branch to take certain steps in foreign relations and has shaped policy by attaching "riders" to appropriation bills.

On January 19, 1951, the day after the United States delegate to the General Assembly had insisted that Communist China be condemned as an aggressor in Korea, the House of Representatives resolved that it was the sense of that body that "the United Nations should immediately act and declare the Chinese Communist authorities an aggressor in Korea." Four days later a similar resolution was adopted by the Senate, with the additional view that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China. On February 1, the General Assembly, under the constant prodding of the United States, found that "the People's Republic of China . . . has itself engaged in aggression in Korea." It was evident that the executive branch could have adopted no other position respecting Red China, since it needed legislative support for the military effort in Korea.

The President is not bound by separate resolutions of the House or Senate, which are merely expressions of opinion on public issues. "Concurrent" resolutions passed by both Houses also have no legal force, however great their actual influence may be. "Joint" resolutions, however, are subject to the same procedures as statutes and have the force of law unless vetoed by the President. These facts help to explain events of the Great Debate in the spring of 1951. Senate Republicans in April sought to secure outright Congressional control over the disposition of American troops by approving in a joint resolution the dispatch of four divisions to Europe, providing any further troop commitments be subject to Congressional approval. The proposal was defeated, however. The Senate then passed a resolution to approve the dispatch of the four divisions to Europe and to warn the President to send no ground troops in addition "without further Congressional approval."<sup>15</sup> The President was

advised, and doubtless well advised, to consult Congress on the further disposition of troops, but he was not legally obligated to do so. Senator Taft and others have challenged the authority of the President as commander in chief to dispatch troops abroad without the consent of Congress.

A year earlier Senator Taft, on the occasion of the appointment of Mr. Dulles as Advisor to the Secretary of State, linked bipartisanship with legislative surveillance of foreign affairs. "To be bipartisan, there must be real consultation on policies, before they are adopted, with the responsible representatives of the Republicans in Congress . . . Bipartisanship is not accomplished by the appointment of an individual Republican to executive office."

The extent of the control of the House over foreign affairs was early recognized when treaties or executive agreements required implementation by legislation. In accordance with the advice of Jefferson, Washington kept both the House and the Senate informed of the details of a treaty with Algiers, since it required an appropriation. The Jay Treaty nearly came a cropper owing to a combination of partisan politics and checks and balances when the Administration almost failed to obtain the necessary implementing legislation in the House.

In sum, Congress was given a strong supporting role in the conduct of foreign affairs. In certain specified fields, indeed, such as foreign commerce and control over aliens, it can play a primary role in policy-making. The House, it is important to note, also passes on the merits of treaties approved by the Senate in giving assent to the appropriations necessary for their implementation. Congress, moreover, cannot be constitutionally obliged to meet the requirement of a treaty or executive agreement negotiated by the President. The President cannot afford to neglect either the House or the Senate in building up support for its foreign-policy programs. Finally, Congress as a whole may terminate a treaty as "the law of the land" by the passage of a resolution or of conflicting legislation.<sup>16</sup> Congress, as we shall see, has had a very important influence in recent policy toward the Far East. It is clear, however, that although Con-

gress has an effective veto over foreign policy, it is not endowed with sufficient authority to conduct our foreign affairs by itself. It must therefore coöperate with the executive branch.

*A "Fourth Branch" of the Government*

The safety of the state requires that the foreign-relations power be regarded as the first line of defense. It requires an effective working relation between legislators and administrators. Indeed the view was expressed in *The Federalist* that the foreign-relations power was neither executive nor legislative but constituted another branch of government. This distinction is emphasized by the fact the chief executive exercises greater power relative to Congress in foreign affairs than in domestic affairs.

In giving "executive power" to the President, the Fathers had the foreign-relations power chiefly in mind,<sup>17</sup> although they protected this power from abuse by giving the Senate a voice on treaties and Congress the power to declare war. While Hamilton later shifted to the defense of the wholly executive nature of the foreign-relations power, he wrote in the *The Federalist*, No. 75, that the power to conduct foreign relations

seems . . . to form a distinct department, and to belong, properly, neither to the legislative nor the executive. The qualities elsewhere detailed as indispensable in the management of foreign negotiations point out the Executive as the most fit agent in these transactions, and the operation of treaties as laws pleads strongly for the participation of the whole or a portion of the legislative body in the office of making them.

The Fathers were familiar with the works of Blackstone, Locke, and Montesquieu, all of whom indicated that they regarded the control of foreign relations as a part of the executive or royal power. Yet both Locke and Montesquieu suggest that the foreign-relations power is of itself a distinct function and department of government. Locke used the term "federative" in distinguishing the foreign-relations power from the "executive" and "legislative" powers, but he noted that the executive and federative powers were "always almost united." Montesquieu used the term "executive" in describing the

foreign-relations power, but makes it clear that he is concerned with a separate department of government "in respect to things dependent on the law of nations" dealing with powers of war and peace and the sending and receiving of ambassadors. The term "judiciary power" connoted the executive "in regard to matters that depend on the civil law."

In British governmental practice there has been a distinction between the foreign-relations power exercised by the Crown in Council and the executive power exercised by the Crown under power delegated by Parliament to responsible ministers. It is fair to say, however, that this distinction must inevitably become blurred in modern practice as the work of many ministries impinges increasingly upon the foreign relations of Britain.<sup>18</sup> Indeed, all governments are forced to modify their administrative and political behavior, first, in the light of the increasing development of international organizations, and secondly, because of the close interrelation of foreign and domestic policy. Yet this is not to deny that foreign relations must be viewed as the function of modern government that increasingly carries the highest priority.

In general, two factors tend to set the foreign-affairs function apart from other governmental functions. First, foreign policy is concerned very largely with what Locke described as the "design of foreigners." American policy is shaped by the behavior of other nations, over which we have little or only partial control. This fact raises grave issues for both legislative and popular control of foreign policy. It is certainly a distinguishing factor between foreign and domestic policy.

Second, the very safety of the state is involved, since foreign policy is conducted in a veritable "state of nature," described by Thomas Hobbes as "war of every man against every man." Whether national security is sought in a policy of coalition or through unilateral action, the United States can afford to speak with only a single voice in world affairs. In this respect, the conduct of foreign affairs again differs from the conduct of domestic affairs.

In Jefferson's words, "the transaction of business with foreign na-



tions is executive altogether." Yet "Congress is not to be prejudiced constitutionally in the exercise of its power by what the Executive has done in the exercise of his."<sup>19</sup> These overlapping doctrines, both of which have a basis in the Constitution, can best be reconciled by interpreting the theory of the Fourth Branch as a theory of joint executive-legislative coöperation.

*Executive-Legislative Coöperation*

Four Presidents have favored the proposal that members of the cabinet be given seats in Congress with the right to initiate legislation and to debate. In a special message to Congress on the relation of the chief executive to Congress, President Taft declared: "It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each other."<sup>20</sup>

A theory of joint legislative-executive coöperation in matters of foreign policy seems to be the most feasible concept in terms of both the provisions of the Constitution and historical development. The necessity for such a doctrine is demanded by the growing need for legislation and appropriations to implement foreign policy. The new United States policy of international coöperation within the framework of the United Nations requires the understanding and support of Congress as well as the President and the people of the United States. Government under the separation of powers, when exercised by men of good will, can meet these requirements.

Yet difficulties are raised by the question of public support. As foreign policy relates to the American people, the two branches play rather different roles. First, it is important to note that while the President and Congress are responsible to the electorate, each is responsible separately. Congressmen and one-third of the Senators are elected to office in years in which the President need not run for office. The election process scarcely serves to draw the two branches together.

Second, the executive, comparatively speaking, has greater knowledge and better sources of information on world affairs, while Congress as a whole is closer and often more responsive to local pres-

tures. Both aspects are important ingredients in the making of foreign policy, but the proper balance is hard to find. Clearly the relation of the two branches to each other is influenced in large measure by public opinion.

A central and characteristic problem that clearly demonstrates the need for executive-legislative collaboration arises in connection with the negotiation and approval of international agreements. The present treaty procedure was designed not only to encourage but to compel interbranch coöperation. Yet it has had just the opposite effect because it has allowed a very small minority of the Senate, representing as little as 3 per cent of the electorate of the country, to block a treaty.

At first glance, considering the number of treaties approved, the Senate may seem to have performed its role adequately. Of 1046 treaties submitted to the Senate between 1788 and 1944, 753 (72 per cent) were approved without change, 167 (16 per cent) were amended, 14 (1.3 per cent) were rejected, 90 (8.6 per cent) received no final action by the Senate, 14 (1.3 per cent) were withdrawn, and 8 (0.8 per cent) were submitted for information only.<sup>21</sup>

Figures, however, do not demonstrate the "prenatal effect" of the two-thirds rule, which results in the smothering of treaties, nor do they show what policies Presidents and Secretaries of State have refrained from pursuing for fear of senatorial opposition. Nor do the figures illustrate the unfortunate consequences that have followed the rejection of major pacts such as the Versailles Treaty. Earlier in our history the amendment of treaties by the Senate was particularly troublesome and led to the rejection of many treaties by the President or by foreign powers. Statistics can be misleading in other respects. There have been instances when the Senate has not acted on treaties because the executive branch actually did not wish it to or gave higher priority to other measures. Some treaties have certainly been improved by Senate amendment.

Partly as a result of the difficulties of the treaty procedure, wide use has been made of executive agreements as an alternate procedure for participating in international affairs. By 1944 more than 1200

agreements had been entered into by the United States involving both major and minor issues. Since 1939 there has been a sharp increase in the number of international compacts entered into by the United States and the ratio became about ten to one against the use of the treaty procedure. No clear distinction can be made as to the subject matter of executive agreements and treaties; the former have included such matters as "most-favored-nation" agreements, the limitation of armaments on the Great Lakes, the Boxer Rebellion Settlements, the "Open-Door" Policy and the Over-Age Destroyer Agreement of 1940.

Beneficial though such agreements may be, however, this procedure, like the two-thirds rule, does not promote executive-legislative coöperation when the President does not seek Congressional participation in some form. But many executive agreements, it should be noted, have been endorsed by joint Congressional resolutions either before or after negotiation. Concurrent responsibility requires teamwork between the branches, "supplementing the law of the Constitution and indicating how the organs entrusted with the control of foreign relations ought to exercise their discretionary powers to avoid friction."<sup>22</sup>

There are many examples of the use of executive agreements in combination with such resolutions. Texas was so admitted into the Union, and the annexation of Hawaii was similarly effected. The procedure has been used in the negotiation of reciprocal trade agreements from the passage of the McKinley Tariff Law of 1892 to the Trade Agreements Act of 1934, which has been renewed periodically since that time. The method has been utilized to effect American participation in all the specialized agencies affiliated with the United Nations and to approve the UNRRA agreement with the United Kingdom, the Soviet Union, and China in 1943.

While executive agreements are important, they are not the only problem. Legislation in general influences foreign policy and, in turn, is influenced by affairs abroad. This fact also emphasizes the need for increased collaboration between Congress and the President. In establishing machinery to promote coördination between

the two branches, the object is not in any way to limit the constitutional prerogatives of the President but to assist him in his responsibility for the conduct of the foreign relations of the United States. The chief executive can speak much more authoritatively in world affairs with legislative support than without it.



## CHAPTER THREE

# *The Organizational Structure*

### *The Executive Branch*

*We have seen* that the conduct of United States foreign policy depends upon close teamwork between the President and Congress. Yet in comparison with the parliamentary system there is little to compel coördination of policy at the top of the political hierarchy, since the President and Congress are separately responsible to the electorate and are frequently elected to office at different times and in different climates of opinion. The President has no power to dissolve Congress in the event that Administration policy is not supported by the necessary funds or legislation. A stalemate must await resolution by elections fixed by the calendar and not by political exigencies. While the very necessity for action in times of crisis may prevent stalemate, as in the European crisis of 1947-48, when a Democratic President was faced with a Republican Congress, there is no guarantee that this will happen.

It is important to recall, moreover, that the Cabinet is not a Cabinet in the sense of British or Canadian practice. Its members are administrative heads of the great departments responsible only to the President, and they do not have seats in Congress. In this sense, the Cabinet is of little value as a corporate body in obtaining support for Administration programs on Capitol Hill. Nor do the departments have parliamentary undersecretaries to present a "govern-

ment" or "cabinet" position on the floor of Congress in a "question hour." In an effort to achieve unity and consistency of action a conscious effort is often made in times of crisis to place certain Cabinet members, particularly the Secretaries of State and Defense, above the level of partisan politics. Furthermore, the Cabinet functions very largely as a meeting place for the heads of departments and plays a relatively minor role in assisting the President to co-ordinate the many facets of foreign policy. This is amply demonstrated by recent war memoirs of public officials which indicate that such important decisions as that requiring unconditional surrender by the Axis powers were taken by the President in the absence of agreement even among those department heads most closely involved in foreign affairs.

Under the pressure of circumstances, however, through the device of recently created cabinet-level interdepartmental committees, the President now may seek the collective views of his chief advisers on matters of high policy. This is an inevitable consequence of the fact that foreign policy is bigger than the Department of State. Many other departments and agencies have considerable control over the basic instruments of foreign policy. The Departments of Commerce and of Labor and the Tariff Commission, for example, originally established by act of Congress with domestic concerns in mind, have come to exert an unanticipated influence in foreign affairs since a policy of isolation has been abandoned.

Since there are political implications even in the activities of the United Nations specialized agencies dealing with such matters as world health and agriculture, technical matters have increasingly been subordinated to politics, and steps have to be taken to promote the coördination of all aspects of foreign policy. The expanded scope of foreign affairs also bears on the problem of legislative-executive relations. The State Department has a lively interest in many matters over which it has no direct control. These include legislation arising in Congressional committees other than the Foreign Affairs or the Foreign Relations Committees. They include proposals originating in many departments and agencies other than

State. The task of building a consistent foreign policy involves a gigantic job of integration. Good working relations with Capitol Hill depend in large measure upon the extent to which the foreign activities of the United States are coördinated. Congress is quick to protest when executive agencies seem to be working at cross purposes.

Most noteworthy of the Cabinet committees to coördinate policy is the National Security Council, established by act of Congress in 1947 and amended in 1949, which now includes the President, the Vice-President, the Secretaries of State, Defense, and the Treasury, the Chairman of the National Security Resources Board, and, with the passage of the Mutual Security Act of 1951, the Director of the Mutual Security Administration. There is some flexibility in the Council's membership, for the President may invite other officials to attend the meetings of the Council. These have included the officials in charge of the old Economic Coöperation Administration, the Office of Defense Mobilization, and the Central Intelligence Agency. The Council is chaired by the President and in his absence reportedly by the Secretary of State. Here machinery exists to bring foreign policy into line with military commitments and domestic capabilities. In some respects this development resembles the co-ordination of foreign and military policy in British practice. For this purpose a Cabinet committee was created as early as 1904, called originally the Committee of Imperial Defense and now simply the Defense Committee. While the Secretary of State for Foreign Affairs is a member, the Prime Minister or a deputy is chairman. The issue raised for both systems is the relation of the Foreign Office or State Department to this high-level policy committee. In both cases a large measure of the coördinating task falls on the respective foreign-affairs departments.

The National Security Council is purely advisory, although its conclusions are usually accepted by the President. It is serviced by an executive secretary and a small staff of individuals whose responsibility is strictly procedural. It is by no means a full-blown "cabinet secretariat," such as was developed under Lord Hankey

as Secretary to the British Cabinet and the Committee on Imperial Defense.

Further steps have recently been taken to achieve the centralized direction that is necessary in the formulation of present-day foreign policy. The post of Special Assistant to the President was established in the White House office in June 1950 to assist in the integration of all aspects of foreign policy. Mr. Averell Harriman was assigned this important task, the nature of which may be inferred from the fact that national security policy requires not only the integration of the foreign and military aspects of policy but the economic and domestic aspects as well. Mr. Harriman's role depended on his close personal relation with the President, the Secretary of State, and the Secretary of Defense, his broad experience in world affairs, and his personal competence. His association with Mr. Acheson, for example, is of long standing, beginning at school and college. He worked with General Marshall and Mr. Lovett on many matters during the war and after. Not the least important was the fact that he held the confidence of Congress, largely because he appeared on the record never to have underestimated the dangers of Soviet Communism. His dispatches as Ambassador in Moscow during the war are known to have contained words of caution on the possibilities of postwar coöperation with the U.S.S.R. Here, then, was a man uniquely equipped to draw together the many strands that make up foreign policy. The job in the White House was quite obviously tailored to the man. As trouble-shooter for the President, he was assisted by a small staff and he attended important departmental staff meetings and sessions of key interdepartmental committees. This function not only is an important element in the coördination of the activities of the executive branch, but helps to promote a more effective relation between the White House and Capitol Hill.

When the President appointed Mr. Harriman to be the Director for Mutual Security under the terms of the Mutual Security Act of 1951, the role of coördinator was placed on a statutory basis and a new twist was added. Mr. Harriman was given two jobs. He was

to supervise and coördinate military, economic, and technical assistance programs. This was, in large measure, a continuation of his former work. But, in addition, he was placed in charge of ECA's successor, the Mutual Security Administration, now a part of the Executive Office of the President.

The Act specified further that the Director should not hold other office or have other responsibilities except those "directly related" to the coördination, supervision, and direction of the programs covered by this Act or otherwise conferred upon him by law." Will this provision eliminate roving missions abroad on such matters as the Iranian oil crisis? Congress, it was evident, wished not only to lay down a policy of military, economic, and technical aid but to prescribe its administration in great detail. Yet Mr. Harriman continues pretty much in his old role. As a practical matter, Congress cannot prevent the President from seeking advice from persons he chooses to consult. The Act, it is important to note, made provision also for a Deputy Director. Mr. Richard Bissell, formerly of ECA, was appointed, becoming the first director of the economic-assistance activity of the Mutual Security Agency. The Defense Department administers the military assistance program. Technical assistance (Point 4) remains with the State Department in the Technical Coöperation Administration and the Institute of Inter-American Affairs. The Act, moreover, specifically states that "nothing contained in [it] shall be construed to infringe upon the powers or functions of the Secretary of State." Mr. Harriman announced, on taking his oath of office, that the coördination of economic and military aid programs would be carried out under his direction by one of his former aides, Mr. Lincoln Gordon, as Special Assistant to the President on foreign policy matters.

Mr. Harriman, therefore, continues to act as presidential trouble shooter. His first assignment was to bring the military commitments of the NATO countries into line with their economic capabilities. He will continue as an important link with Congress. Under the Act he is required to prepare for presentation to Congress such programs of military and economic assistance as are necessary



for the security of the United States. It may be said that the foreign-affairs functions of Colonel House and Mr. Harry Hopkins under Presidents Wilson and Franklin Roosevelt respectively have been institutionalized in the Harriman office and that further development in this direction will continue. The point is that the President is faced with ever-increasing responsibilities in foreign affairs. Yet he cannot make every decision personally nor participate in the formulation of any but the most crucial of policies.

Interdepartmental committees other than the National Security Council also play important roles in coördinating the diverse elements of foreign policy. The National Security Resources Board is charged with the long-range aspects of providing economic resources sufficient to support national policy. Its chairman is ex officio a member of the National Security Council and advises the President on the coördination of foreign policy with military, industrial, and civilian mobilization. Mr. Harriman was given this important assignment in June 1951, in addition to his duties as Special Assistant to the President. While the Office of Defense Mobilization has responsibility for mobilization in the short range, the National Security Resources Board is responsible for the long-range effects and problems of mobilization as these affect foreign and domestic policy.

The National Advisory Council on International Monetary and Financial Problems, chaired by the Secretary of the Treasury and including in its membership the Secretaries of State and Commerce, the chairmen of the Federal Reserve Board and the Export-Import Bank, and the Director for Mutual Security, is primarily responsible for furnishing the President integrated advice on the foreign economic policy of the United States. Below the cabinet level over thirty interdepartmental committees serve to integrate policy in the executive branch on such matters as international aviation, trade agreements, shipping, and international social and cultural affairs. Those committees in which foreign policy is the dominant concern are usually chaired by representatives of the Department of State.

Another important presidential aide that helps to coördinate the foreign-policy-making process, as part of its over-all task of holding



the executive financial reins, is the Bureau of the Budget. Its Legislative Reference Division has the responsibility of clearing all executive-agency reports to Congress, including requests for legislation, to be certain that they are in harmony with the total executive program. The Fiscal Division takes external problems into account as it advises the President on the broad long-range implications of the executive budget. The Division of Administrative Management is concerned with the operating efficiency of the executive apparatus. Thus, because substantive programs are constantly being shaped by the power of the purse, the Bureau of the Budget wields tremendous influence in foreign as in domestic affairs.

### *The State Department*

In spite of the growing complexity of foreign affairs, the consequent mushrooming of interdepartmental committees, and the establishment of the Mutual Security Agency, the Department of State remains the principal source of advice to the President on foreign-policy formulation. As noted, however, it now must seek government-wide integration of advice. Consequently it participates heavily in interdepartmental activity.

Problems are placed for action in one of six major operating bureaus, each headed by an Assistant Secretary of State as "operating vice-president" with considerable latitude to make day-to-day decisions in his area of responsibility according to the general policy directives laid down by the Secretary and his staff. Five of the operating bureaus deal with the principal geographic areas of the world, and one deals principally with the United Nations and the specialized agencies. Within each bureau there are functional experts to advise the political officers on such matters as intelligence, public information programs, and foreign economic policies. Thus in the Bureau of European Affairs there are officials working on the Schuman Plan, the build-up of armed forces in Western Europe, and the politics of French labor movements. Diplomatic missions and consular offices report, generally speaking, to the Assistant Secretary of the appropriate geographic bureau, while the missions to the

United Nations report to the Bureau of United Nations Affairs.

At the "staff" level the Secretary of State is assisted by the five above-mentioned Assistant Secretaries and other officials, including the Under Secretary, and by two Deputy Under Secretaries, one in charge of departmental administration, including the loyalty and security of personnel, and the other in charge of the coördination of policy matters. To accomplish this latter task, the Deputy Under Secretary for substantive affairs supervises staff meetings of important officials and the State Department's Executive Secretariat.

Also at the staff level are an Assistant Secretary for Public Affairs and an Assistant Secretary for Economic Affairs. The former, on the one hand, assists the Secretary in the all-important problems of cultural and public-opinion aspects of foreign policy and, on the other hand, is responsible for such operations under the immediate supervision of a general manager as the "Voice of America" and the Student Exchange Program. The Assistant Secretary of State for Economic Affairs provides advice on economic and social matters from a global standpoint and serves as a point of communication and coördination with other departments and agencies engaged in such matters. In fact, the Department of State was urged by the Hoover Commission to avoid encroaching on the work of such departments as Treasury, Commerce, and Labor, but to advise these agencies so that their operations might be conducted in a manner consistent with the foreign policy of the United States. For example, it maintains close working relations with the Office of International Finance in the Treasury Department, the Office of International Trade in the Commerce Department, and the Office of International Labor Affairs in the Labor Department.

Other elements at the staff level in the State Department include the Legal Adviser, the Counselor, a Special Assistant for Intelligence, and the Policy Planning Staff, which is theoretically free of day-to-day decisions so as to provide a look ahead in world affairs. Finally, there is an Assistant Secretary for Congressional Relations, responsible for the important task of maintaining close working relations with "the Hill." He cannot, however, replace the Secretary

or other high officials in this respect. His task is to keep in touch with events in Congress for the Department's information and to perform a host of tasks beneficial both to the State Department and to Congress. Crucial policy matters are generally laid before the committees of Congress by the Secretary himself. Yet the Assistant Secretary and his staff of roughly twenty-five people have much to do. During the 81st Congress they took the lead in planning and coordinating the presentation of over fifty drafts of legislation in addition to nearly forty treaties and executive agreements. State Department letters to members of Congress for one year number many thousand. Finally, the State Department's contacts with "the Hill," including periodic briefing seminars, are regularized and scheduled by this staff. Foreign-service personnel are also encouraged to keep in close touch with their Congressmen.

Foreign policy cannot be compartmentalized into either a regional or a functional scheme of organization, however, and great pains are taken in the Department to ensure that the interrelation of all questions of policy are carefully considered. Since the work load cannot be carried without specialization, the object of departmental organization is to provide both the requisite specialization and the integration that are implicit in the phrase "total diplomacy." Recently the Foreign Affairs and Foreign Relations Committees of the House and Senate, respectively, have established "consultative subcommittees" which conform to the organization of the Department of State. This step is designed to increase consultation between the Department and the committees on programs and problems of common concern.

The Department is staffed by two separate personnel organizations—the Foreign Service of the United States, a career group obligated to serve at home or abroad, and the Civil Service, working primarily in the home department and in special capacities overseas for generally limited and infrequent tours of duty that include international conferences. This division of personnel has tended in the past to increase the problems of coordination in the State Department and in the executive branch. The Foreign Service Act of 1946 was enacted

as the result of close teamwork between a subcommittee of the House Foreign Affairs Committee and the administrative officials of the Foreign Service itself, without the full benefit of the normal process of legislative clearance by the Bureau of the Budget. The President, it appeared, was not to be permitted to organize his foreign affairs officials as his staff advisers thought best.<sup>1</sup>

The basic act of 1946 has been amended, however, so as to transfer to the Secretary of State the authority formerly exercised by the Director General of the Foreign Service. The Secretary of State is now in effective control of all his subordinates, and the administration of both services is the immediate responsibility of the Deputy Under Secretary for Administration. Recommendations have been made by the Hoover Commission and others for a single Foreign Affairs Service in the Department of State, combining the Foreign Service and Civil Service personnel in the State Department. A departmental announcement of April 1951 indicates that this may be accomplished in the course of time by greatly increasing the size of the present Service to include individuals trained in the many specialties now required for the conduct of foreign policy.

Not all overseas operations are managed by the Department of State. The Economic Coöperation Agency and now the Mutual Security Agency have controlled to a very considerable degree the instrument of economic aid in foreign affairs. In the field, working relations between the foreign-aid mission and the diplomatic mission, though generally good, have at times proved difficult. In the case of Western Germany, however, the United States High Commissioner was also the principal ECA representative.

In sum, the Department of State takes the lead in the formulation of foreign policy. While its coördinating role has been somewhat reduced, it also has important responsibilities in this respect. More than any other department it is primarily a Presidential staff agency and, with the exception of specific matters such as the amount of United States contributions to international organizations, is not required to furnish yearly reports to Congress. Increasing care is being taken to ensure that all overseas operations, such as foreign aid

and technical-assistance programs, are administered so as to implement the policies laid down principally by the Department of State.

*The Legislative Branch*

Congress, it has been noted, has an effective veto over many aspects of foreign policy, particularly in its exercise of the appropriations power. Its crucial role was demonstrated in the years prior to the Second World War by the Neutrality Acts, during the war by the Lend Lease and UNRRA resolutions, and in the postwar period by the Marshall Plan and the rearmament program. Since the initiative for the formulation of foreign policy rests generally with the executive branch, however, the role of Congress, particularly the House, is rather like that of a jury before which the State Department must prove its case.

There are occasional modifications of this relation, however. In the case of the North Atlantic Treaty, the Senate Foreign Relations Committee and particularly its Minority Leader, Senator Vandenberg, joined hands with the State Department in the initiation of policy.<sup>2</sup> To a considerable extent Congress can also initiate foreign policy through the appropriation of funds for specific purposes. A China Aid Program was included in the ECA program by the 80th Congress in spite of the obvious reluctance of the Administration. Such legislation may be vetoed by the President, but often at the risk of losing a total program that seems indispensable or cannot afford delay. Similarly, Congress attempted to make mandatory the granting of a \$62,500,000 loan to Spain through ECA by its inclusion in a \$36,000,000,000 appropriation bill. The President, in approving the total bill, insisted that the provision in question was unconstitutional and that the most he would agree to was a loan by the Export-Import Bank.

Congress has also sought to direct foreign policy by attaching legislative riders to appropriation acts. The Third Deficiency Appropriation Act of 1951 contained an anticommunist rider to restrict trade between the free world and the Soviet Union. The President,



in signing the Act, declared that he did so because the appropriations it carried were "so urgently needed" and because the rider permitted some latitude in its execution. It was, he noted, a piece of legislation "quite unrelated to the major purpose of the Act, which is to appropriate funds." Although it affected foreign policy directly, "it was never considered by the House Foreign Affairs Committee or the Senate Foreign Relations Committee."<sup>3</sup>

Short of impeachment, there seems to be no way that Congress can compel the President to accept its view on the way in which foreign relations should be conducted. On the basis of the court precedents examined previously, the power of the President to direct foreign affairs as he thinks best within broad limits would probably be sustained.<sup>4</sup>

Congress, what is more, influences the conduct of foreign policy by means of legislation affecting the structure of the executive branch, including both agencies, such as the State Department, and the Mutual Security Agency, and committees, such as the National Security Council. Indeed Congress, despite the recommendations of the Hoover Commission, has been reluctant to grant the President a free hand in executive "housekeeping." This puts a premium on effective collaboration between the branches. For example, Congress had one view regarding the administration of the Foreign Service in 1946 and the President, on the advice of the Bureau of the Budget, had another.

The primary problem posed by the organization and procedure of Congress is that there is no one central point of coordination and control over foreign policy in the legislative branch. The division of control over important instruments of foreign policy among the departments of the executive branch has its counterpart in the lack of coordination among the standing committees of both the House and the Senate. The executive branch, however, has achieved far greater centralization through the work of the Executive Office of the President, the State Department, and interdepartmental committees than has been forthcoming on Capitol Hill. For example, telecommunications, transportation and shipping fall under the



jurisdiction of the Interstate and Foreign Commerce Committees of House and Senate. The Ways and Means Committee of the House has dealt with trade agreements and the extension of the Reciprocal Trade Agreement Program. The authorization of funds for the Export-Import Bank and jurisdiction over matters affecting the International Monetary Fund and the International Bank for Reconstruction and Development rest with the Banking and Currency Committees. Congressional committees, moreover, have a degree of power that is, generally speaking, unique among legislative bodies. A committee's attitude on policy very largely determines the attitude of the entire House or Senate. Committees may alter administration measures at will or may even pigeonhole them.

It is evident, then, that the Foreign Relations and Foreign Affairs Committees are at present unable to draw together the many elements of foreign-policy activity on Capitol Hill. The jurisdiction of these committees is no longer of sufficient scope to perform the task. Other committees jealously guard their prerogatives regarding matters that increasingly are involved in foreign policy, and the Department of State can neglect them only at its peril.

A recent development stemming from the investigatory power of Congress is the creation of "watchdog" committees. These are joint Congressional committees established to supervise the execution of policies that have been laid down by act of Congress. Examples are the Joint Committees on Foreign Economic Coöperation and on Atomic Energy.

Committee structure introduces another important factor in legislative-executive relations, the role of the committee chairman. He attains his powerful position by seniority, a method irreverently described as the "senility" rule. Thus a man with little background or ability in the field of foreign policy may emerge as chairman of a crucial committee. The President therefore has little or no choice in the selection of these Congressional figures with whom he must collaborate. Yet it is fair to say that the rule of seniority probably eliminates a mad scramble for power and places in the chair someone who is at least experienced in the committee's work.

This decentralization of authority in Congress over important instruments of foreign policy raises severe problems. First, it strains legislative-executive relations, since a carefully integrated executive program may be torn apart as the result of uncoordinated activity on Capitol Hill. Second, the Department of State and other agencies must deal with many congressional committees if the United States is to behave with consistency of purpose in world affairs. This places a well-nigh intolerable burden on these agencies if all legislation dealing with foreign affairs is to be consistent with the objectives of our foreign policy. Finally, policies in support of the general interest are difficult to frame since Congress, lacking effective party discipline, is highly susceptible to the particular interests advanced by sectional and other pressure groups which focus on the highly autonomous committees.

Representatives, faced with the necessity of running for office every two years, are susceptible to the pressures of well-organized lobbies, some of which now appear to be supported in part by foreign interests and many of which have a special ax to grind in world affairs. While Senators are more secure with their six-year terms of office, the Senate is also responsive to special interests, sectional and otherwise. The greater the specialization of legislative activity through the authority of the standing committees, the more effective become the pressures of lobbyists. Congress often fails to place particular interests sufficiently in the perspective of the general or national interest. When issues affecting the safety and welfare of the entire country and its allies are at stake, this deficiency becomes dangerous.

How then are the various components of foreign policy drawn together on Capitol Hill? Within each house the Appropriations Committee becomes, in fact, a significant point of control. For the House, the Rules Committee, through its important power to regulate the flow of legislation to the floor, may also influence the character of foreign policy. At one time, for example, this Committee shaped foreign policy by refusing to clear a bill reported favorably by the House Foreign Affairs Committee on the matter of grain shipments to India. It was hoped that the professional staffs of Congressional committees, enlarged by the Reorganization Act of 1946,

would assist in coördinating committee action by communication with each other and with executive officials. While there may be some improvement in this respect, jealousy regarding committee prerogatives has tended to extend also to the staffs. Indeed, Congress has no adequate over-all staff work to assist in drawing together the work of the various committees. In the Senate, the Armed Services and Foreign Relations Committees have held joint hearings on matters of common interest such as the dispatch of troops to Europe and the dismissal of General of the Army Douglas MacArthur from his Far East commands, an inquiry that included many aspects of Asiatic policy since 1944. Joint hearings of House and Senate standing committees, however, have not proved acceptable, principally from the Senate point of view.

Conference committees, of course, iron out differences emerging from the bills reported out by the standing committees of each chamber. They also eliminate unfortunate features in many instances which have often resulted from the pressures that Congressmen and Senators are reluctant to challenge on the record. Many an item has been included in a bill in the genuine hope and expectation first, that it will disappear in conference, or second, that it will not be implemented by the President. Yet they can also be dangerous since they assume such great power to add or omit items with little control by the parent bodies.

In some instances coördination is sought by the creation of special committees of members drawn from the standing committees that are concerned with a given problem. Thus the Select Committee on Foreign Aid in the House (the Herter Committee) was composed of representatives from the Committees on Rules, Interstate and Foreign Commerce, Appropriations, and Foreign Affairs. The support the Marshall Plan enjoyed on the floor of the House was enhanced by the fact that both political parties were represented in the membership of this committee. Bipartisanship helps to coördinate policy in Congress and with the White House, but is inevitably limited to matters of major concern on which there is a wide area of agreement. It is difficult to have politics stop at the water's edge when foreign and domestic policy are so closely

interrelated and when issues of foreign policy may figure in a presidential campaign.

Party policy committees in the House and Senate are further aids in developing an integrated party program in matters of foreign policy. Party leadership helps to bridge the gap between the President and Congress and between the two houses of Congress, but party discipline is usually conspicuous by its weakness in the United States.

It seems fair to say that Congress remains without any very dependable method of integrating the control of foreign policy. It is evident that United States foreign policy depends very heavily on there being men of good will in both Congress and the White House. Success or failure in foreign affairs is also contingent on the degree of confidence that the executive elicits on Capitol Hill and in the electorate. Given effective leadership, government under the separation of powers presents difficulties but not insuperable obstacles to the proper conduct of foreign affairs. Yet the institutional setting influences Congressional attitudes toward foreign policy. Publicity is the very stuff of a Congressional career, and it can be secured if the Representatives or Senators appear vigilant in defending "American" principles against the subversive wiles of the executive in general and the Department of State in particular. Attacks on executive officials, whether principled or not, have, in some instances, paid off in terms of partisan advantage. Since publicity is Circe to the legislator, secret intelligence rests uneasily in his bosom, and coöperation with foreign and military policy officials is awkward at best.

Friction between the President and Congress, however, can be explained only in part by the mechanical structure of government and the perversity of character. It rests in part on the heterogeneous nature of American society, made up of diverse sectional and economic interests that over the years have shaped our governmental practices. The responsibilities and problems that face the United States are frustrating and require the wisdom of experience and broad public consensus on fundamental issues. As these develop, governmental machinery will prove more equal to the task.

## CHAPTER FOUR

# *Presidential Initiative,* *1789-1829*

*F*or the purposes of this study the history of the foreign relations of the United States may be divided into three periods. In the first period, from 1789 to the end of John Quincy Adams's term of office in 1829, foreign affairs played a vital part in the affairs of the United States, and domestic politics generally turned on foreign-policy issues. Presidents were chosen in large measure because of their competence and experience in international affairs. Four presidents out of the six in this period were former Secretaries of State, and, generally speaking, all of them displayed strong leadership in the exercise of the foreign-relations power. Indeed, it has become axiomatic that presidential authority has developed in the United States when foreign problems have come to the fore.\* Yet even in this period of presidential initiative in foreign affairs, Congress was by no means without influence. Much of the impetus for the War of 1812, for example, came from the hot-blooded "war hawks" of the West in the House of Representatives.

In the second period, extending from 1829 to 1898, the problems confronting the government were mainly domestic. Congress generally assumed governmental leadership with the exception of the

\* "When foreign affairs played a prominent part in the politics and policy of a nation, its Executive must of necessity be its guide; must utter every initial judgment, take every first step of action, supply the information upon which it is to act, suggest and in large measure control its conduct." Woodrow Wilson, *Congressional Government* (15th ed., New York, 1900), introduction.



Civil War experience. Although Presidents asserted their constitutional prerogatives regarding the foreign-relations power, opportunities were relatively few, and defeats at the hands of Congress were frequent.

The third period, extending from the Spanish-American War of 1898 to the present, has been characterized by the increasing importance and complexity of foreign affairs and the growing power and influence of Presidents. Executive authority, however, has not gone unchallenged by either the Senate, grown strong after nearly a century of American isolation from world affairs, or the House, the influence of which has increased with the growing importance of economic considerations in the conduct of foreign affairs.

Presidential initiative in the formulation of United States foreign policy was established at the very beginning of our country's history. The neutrality proclamation of 1793 and the doctrine of no "entangling alliances" attest to Washington's leadership. It should be noted, however, that Congress also exercised its prerogative in foreign affairs in this period. In 1794 neutrality became policy through legislative enactment for the first time.

Although Jefferson had argued earlier for strict construction of the Constitution, on assuming the presidency he agreed to the purchase of Louisiana by Monroe and Livingston without prior Congressional authorization, at three cents an acre, admitting privately that the purchase was "an act beyond the Constitution" but hoping that Congress would overlook "metaphysical subtleties."<sup>1</sup> The Senate did just that and approved the three treaties implementing the transaction by a vote of 24 to 7.

It is noteworthy that Jefferson, in view of the need for appropriations, originally intended to lay the treaties simultaneously before both houses of Congress, but was dissuaded by Madison, Gallatin, and others of his Cabinet lest the procedure cause delay and offend the Senate.<sup>2</sup> In his message to both houses, however, Jefferson stated that once the treaties had received the "constitutional sanction of the Senate, [they should] without delay be communicated to the Representatives also for the exercise of their functions as to those



conditions which are within the powers vested by the Constitution in Congress.”<sup>3</sup> In so doing, Jefferson followed a precedent set by Washington, who in negotiating a treaty with Algiers said that appropriations must be made by Congress as a whole and not by the Senate alone in its exercise of the treaty-making power. Thus even strong Presidents soon discovered that they needed the coöperation of Congress in dealing with many types of external questions.

In dispatching forces to fight in Korea in June 1950 President Truman was by no means establishing a precedent. Cautious though he was, Jefferson also dispatched naval forces to defend American interests—in that instance to the Mediterranean to fight the Barbary pirates in the years 1801-1805, without a declaration of war by Congress.<sup>4</sup> The scope and duration of the “undeclared” war in Korea and its relation to collective security under a world organization are, however, new departures in American experience.

Jefferson, in his second administration, retained the initiative in his efforts to settle differences with the British. In spite of rising popular anger against high-handed acts on the seas, including the impressment of seamen and the defeat of the frigate *Chesapeake* in 1807, he resolved to bring that nation to terms by a policy which substituted economic coercion for resort to arms. In the face of strong Federalist opposition, he succeeded in forcing a broad-gauged embargo act through Congress in December 1807. The passage of the act and the subsequent results illustrate how important party politics have been on certain occasions in the conduct of foreign relations. Generally speaking, Republicans were in favor of, and Federalists were opposed to, the Administration’s program even though the economic interests of both parties suffered heavily.<sup>5</sup> It became axiomatic with the growth of political parties that the opposition would leave no stone unturned, foreign affairs not excepted, to make political gain at the expense of the party in power. Jefferson excelled in the liberal use of presidential power which he formerly had criticized under Washington. The views of Hamilton and Madison on presidential prerogatives in foreign affairs also varied according to the party in power.

Finally, the enunciation of policy toward Latin America by President Monroe and his Secretary of State, John Quincy Adams, in the doctrine that bears the former's name, is symptomatic of the strong presidential leadership that generally prevailed during this period. Meanwhile Congress, to assist the President in carrying out his foreign policies, created a Department of State in 1789, which, unlike other departments such as the Treasury, was created not to carry out enactments of Congress but to carry out the will of the executive as a "Presidential Department."<sup>6</sup>

### *Precedents in the Treaty-Making Process, 1789-1829*

By 1817 the treaty-making process had hardened in a pattern quite different from that envisaged by the framers of the Constitution. A close observer has written:

In the final analysis, party politics, personalities, jealousy over prerogatives were the determining factors in the crystallization of a process which in later years was to become rigid, unchanging and sacerdotal.<sup>7</sup>

In applying the "advice and consent" clause of the Constitution, Presidents soon neglected the advice of the Senate in favor of its consent. Only a few senators were consulted in order to gain their personal support, and the concept of the Senate as a "council of advice" soon ceased. Formal approval of a treaty came to be sought *after*, rather than *before* or *during*, the negotiations.

The use of executive agreements and executive agents which required no Senate approval was also developed in this period, though largely in effecting minor matters such as postal agreements and boundary settlements with Indian tribes.

At first Washington followed the literal provision of the Constitution. Not only did he seek the *prior* advice of the Senate, but at first he did so in person. Indicative of the close relation that was anticipated between the legislative and the executive branches is the fact that the Senate sought the advice of Washington in regard to the procedure for giving its "advice and consent" to the nominations

of public officers and to treaties. Whereas Washington felt that nominations should be made by written messages, he first held the view that personal conferences were better suited for obtaining the "advice and consent" of the Senate to treaties.

The Senate's early rules of procedure accordingly made provision to receive the President, but Washington's first experience in 1789 with direct consultation on the terms of a treaty to be negotiated with the "Southern Indians" was so unsatisfactory that he is reported to have declared that "he would be damned if he ever went there again."<sup>8</sup> Evidently the reserved attitude of the Senate in the presence of the Chief Executive stemmed from a fear that its constitutional prerogative was being invaded and its independence of action threatened. The Senators were awkward and ill at ease in the presence of the President, who, sword at his side, was accompanied by General Knox, the Secretary of War. Was the General trying to overawe them? Some of the Senators wished to refer the matter to committee. One of them, William Maclay of Pennsylvania, has recorded:

My reasons were, that I saw no chance of a fair investigation of subjects while the President of the United States sat there, with the Secretary of War to support his opinions and overawe the timid and neutral part of the Senate.

He was convinced that:

The President wishes to tread on the necks of the Senate . . . He wishes us to see with the eyes and hear with the ears of his secretary only . . . Form only will be left to us.

Washington in his turn found it annoying and cumbersome to consult with the Senate, and was nettled at the stiffness of its members who declined to discuss the merits of the treaty or their own views without referring the matter to committee. The affair was mutually unsatisfactory and carries implications of caution for those who would alleviate the travails of foreign policy under the separation of power by simply bringing members of the legislative and

the executive branches face to face in the formulation of policy. Early in its history, in short, the Senate showed as great concern for its prerogatives as for the merits of a particular treaty. Presidents, in turn, have chafed at Senate prerogative. The result, until the period following the Second World War, has usually been an inflexible application of the principle of separation of powers in a fashion that does not appear to have been the intention of the framers of the Constitution.

Not wishing to repeat this experience, Washington next resorted to written communications, laying out the details of a *proposed* treaty. Finally, in connection with the Jay Treaty, he adopted an even more independent course of action and simply notified the Senate that he wished to dispatch Jay to settle outstanding differences between Britain and the United States, giving no details of the proposed negotiations. Now partisan politics had to be contended with, since political parties were already taking form. The nomination of Jay as special envoy in 1794 was decided upon by the President after advice from but five Federalist members of the Senate. The nomination was confirmed only after the Federalists prevented the passage of a resolution requesting the President to disclose "the whole business with which the proposed envoy is to be charged."<sup>9</sup>

Since the Senate had been unable to exercise its constitutional authority of advising, it insisted on the right to amend the twelfth article of the Jay Treaty. The amendment was acceptable to Lord Grenville, and precedent was thereby established for the American custom of ratifying treaties conditionally or with amendments by the Senate. This accommodating spirit did not persist, however, for in 1803 Great Britain refused to accept an amendment proposed by the Senate to the King-Hawkesbury Convention, the first treaty to be lost on such grounds. The Senate, moreover, was unable to enforce its own rules of secrecy in regard to the Treaty, confirming the view of Washington and other Presidents that it was not a safe repository for diplomatic secrets.

It is significant that those framers of the Constitution who later became government officials at first proceeded as though the Senate

were intended to participate in the early as well as the later stages of international negotiations as a kind of advisory council to the President. While actual practice soon contradicted this doctrine, there has been a growing sentiment in favor of it in recent times.\*

Other important aspects of the treaty-making process that are relevant today developed in Washington's administration. For fear of "leaks" by the Senate—in this case to Mr. Hammond, the British Minister to the United States—Washington, on the advice of his Cabinet, including Jefferson as Secretary of State, negotiated a treaty with Indian tribes on the northwest frontier that was actually signed before presentation to the Senators for advice and consent.

The standing-committee structure was foreshadowed as early as 1790 when Washington, in line with his view that the Senate was a council of advice on foreign affairs, presented it with the problem of Anglo-American boundary disputes. In this case the matter was referred by the Senate to a committee of five. The need for specialization continued, and the practice of appointing select committees to deal with foreign problems as they arose was soon developed. Such committees were generally composed of members who had served previously on similar *ad hoc* bodies.<sup>10</sup> Then in 1816 the Senate Foreign Relations Committee was established as the first of the standing committees.

The action of Washington in regard to treaties generally implies that the Federalists tended to regard the treaty-making process specified in the Constitution as the sole method of entering upon

\* For examples, see T. K. Finletter, *Can Representative Government Do the Job?* (New York: Harcourt, Brace, 1945), chap. xi; and the comments of Senator Wiley of Wisconsin in 1945 on the occasion of the report in the Senate by Senators Connally and Austin on the results of the Inter-American Conference at Mexico City; "I see a new day in prospect for America. No longer do the two members of this team—the Senate and the Executive—play separately. This is the first time since I came to the Senate that a Senator of the United States has been sent by the executive department to treat with foreign nations; and we have the report today. The occasion is highly encouraging. It augurs well for the future. When we can send two men as the Senator from Texas and the Senator from Vermont who know the Constitution, who know the meaning of having checks and balances in government, and who can sit down and reason a proposal through, we know that the plan of the fathers is in operation." *Congressional Record*, 79th Congress, First Session, vol. XCI, pt. 2, p. 2026.



international agreements. Washington, in refusing a request of the House for papers on the negotiation of the Jay Treaty, stated that "the power of making treaties is exclusively vested" in the President and Senate.<sup>11</sup> Yet there is no escaping the fact that the House, although not legally obligated, would appear to be under moral compulsion to make the appropriations necessary to implement a treaty.

The text of the Constitution, however, does not sustain the view that the Founding Fathers considered the treaty-making process to be the only way to reach international understandings; nor does practice. For example, states, while prohibited from concluding treaties, may nevertheless "enter into any agreement or compact" with other states and with foreign powers, subject to the approval of Congress.<sup>12</sup> Thus a distinction is created between treaties on the one hand and "agreements or compacts" on the other. In the latter case congressional sanction suffices. Furthermore, "agreements or compacts" not involving the states appear to require no congressional approval at all. Jefferson and Madison took the position that the treaty-making power of the President and Senate was not intended "to deprive Congress of the concurrent power to give effect to international agreements or to authorize international agreements on subjects within its delegated powers."<sup>13</sup>

The Treaty of Ghent, signed in December 1814, is noteworthy for the fact that President Madison, with Monroe as his Secretary of State, appointed Senator Bayard and Congressman Henry Clay as two of the five members of the peace commission. Although this practice has done much in more recent times to obtain friends for ratification in the Senate, that treaty required little assistance; the senate's consent early in 1815 was unanimous.

Following the War of 1812 and the Treaty of Ghent, mutual disarmament was effected on the Great Lakes by the Rush-Bagot Executive Agreement. While this understanding is illustrative of the initiative of the Presidents and Secretaries of State of the period and required no Senate approval for implementation, it was endorsed by the Senate a year later. No exchange of ratifications was necessary, however, since the matter was not considered to be a formal treaty.



Indicative of changes to come was the failure of John Quincy Adams, Secretary of State and heir to the presidency, to obtain Senate consent in 1824 to a treaty with Great Britain prohibiting the slave trade. This incident demonstrated that treaties are very likely to receive rough treatment from the Senate in election years. The real motive of the enemies of the treaty was to discredit Adams, who was a candidate in the hotly contested election of 1824, and admendments unacceptable to the British were added to the treaty, which had already been signed. In 1920 the enemies of the Versailles Treaty similarly sought to discredit the Administration that had negotiated it.

Finally, it is important to note that the gap between the legislative and the executive branches was further bridged by the creation of another committee in 1822, the House Committee on Foreign Affairs. Its establishment followed the growing importance of the House under the leadership of Henry Clay in the speaker's chair and the declining influence of the President. As with the Senate, such a committee existed in effect long before its formal establishment, and was instrumental in urging Madison to take a firm course with Britain in 1812.<sup>14</sup>

## CHAPTER FIVE

# *Congressional Supremacy, 1829-1898*

*From the Presidency of Andrew Jackson to the Spanish-American War the attention of the government was generally focused on domestic rather than foreign issues. In this period "the struggle over slavery and states' rights compelled the election of weak, compromise Presidents; and preoccupation with domestic affairs and development of the West enhanced the power of Congress."*<sup>1</sup> Military emergencies such as the Mexican and the Civil Wars, however, tended to redress the balance in favor of the President. The following examples characterize the foreign relations of the United States during this period.

The chief executive failed to persuade the Senate to agree to a claims treaty negotiated with Mexico between 1839 and 1843, and the amendments to the signed treaty that were insisted upon by the Senate proved unacceptable to Mexico. It is true that the highly important Webster-Ashburton Treaty of 1842, settling the Canadian-Maine boundary, was approved by the necessary two-thirds of the Senate, but it was helped through by the unusual skill and influence of Webster as Secretary of State, who consulted frequently with important Senators during the negotiations and by the fact that the political parentage of the treaty was doubtful.<sup>2</sup> Neither Whigs nor Democrats could gain partisan advantage by either defeating or supporting the treaty. Also important was the fact that the treaty was not entangled with the political conflicts of an election year.

More typical of this period was the defeat in 1844 of the treaty for

the annexation of Texas. Although Mexico indicated that annexation would mean war, President Tyler sent a message to Congress urging ratification. But there was strong opposition in the Senate. Senator Benton of Missouri, for example, introduced a resolution stating that "ratification of the Treaty . . . would be an adoption of the Texan War with Mexico by the United States" and that "the treaty-making power does not extend to the power of making war."<sup>3</sup> Although no action was taken on this resolution, the treaty was defeated. Within two days Tyler took the unprecedented step of sending the rejected treaty to the House with the hope of annexation by joint resolution.

No action was taken, however, until the presidential election of 1844, fought chiefly on the annexation issue, was interpreted to mean a victory for the expansionists led by James K. Polk. Congress was now ready to comply, and the House, while Tyler was still President, passed the resolution 120 to 98 in January 1845.<sup>4</sup> The Senate Foreign Relations Committee, anxious to prevent what it considered to be a concession of the treaty-making power to the House, reported the measure unfavorably. The Senate, however, finally adopted the resolution 27 to 25 in February after adopting face-saving amendments. Tyler signed the measure in March as one of the last acts of his term.

Polk as the new President had no trouble in securing support for a declaration of war in the armed conflict with Mexico that soon followed. Nor did he experience any trouble in closing the war by the Treaty of Guadalupe Hidalgo in 1848, for neither party dared take the responsibility for its defeat by making it a party issue.

The Oregon Treaty of 1846 was assisted in its passage through the Senate by "the obvious wisdom of removing the danger of war with Great Britain while engaged in hostilities with Mexico."<sup>5</sup> It is significant that Polk reverted to the then rare practice of consulting the Senate before the negotiations. Thus the proposal to divide the Oregon country at the 49th parallel was referred to the Senate for advice prior to the signing of the treaty. The Senate voted to advise the signing of the treaty and again to give its consent.

The Clayton-Bulwer Treaty of 1850, guaranteeing equal rights to the United States and Great Britain in a proposed unfortified canal in Central America, joining the Atlantic and Pacific, is significant for the fact that it obtained the approval of the Senate even though a Whig, Zachary Taylor, occupied the White House while the Democrats controlled the Senate and the chairmanships of its important committees.<sup>7</sup> For this reason Secretary of State Clayton went to great lengths to consult with many Senators of both parties, submitting the draft project to some and obtaining in particular the confidence of Senator W. R. King, Chairman of the Foreign Relations Committee. King, fortunately for the Administration, had a good grasp of international affairs, having served as Minister to France from 1844 to 1846. His crucial role in the Senate seems to have been thoroughly understood by both Sir Henry Bulwer and Secretary Clayton. He is reported to have supported the pact with all his influence in spite of party differences because it seemed to him to serve the national interest.<sup>8</sup> This incident suggests the important role played by the Chairman of the Foreign Relations Committee. It also stands out in contrast to the behavior of other Senators who, on occasion, have given heavier consideration to partisan advantage.

The failure of the Danish Islands Treaty of 1867 and the Johnson-Clarendon Treaty of 1869, an abortive attempt to settle the *Alabama* claims, may be regarded primarily as defeats for a discredited administration.<sup>9</sup> In the case of the second treaty a new president had already been elected. Since President Johnson had been selected to run with Lincoln as a "union man" during the war rather than as a Republican, the government, after the death of Lincoln, may be considered for all practical purposes to have fallen under divided party control. Any treaty identified with the Johnson Administration was sure to meet with opposition in Congress without regard for its merits.

The treaty for the purchase of Alaska in 1867 was the one exception to this condition of affairs, and its passage seems to have resulted from the belief that Russia had run the risk of war to aid the United States against Britain and France during the Civil War and

from the judicious distribution of bribes by the Russian Minister.<sup>10</sup> Conversely, the defeat of the Johnson-Clarendon Treaty had much to do with anti-British sentiment following the war.

It is important to note that prior to the Johnson-Clarendon Treaty the Senate revised its standing rules in 1868 so that, except for the final question of advice and consent to the ratification of a treaty, all motions and amendments were to be decided by simple majority vote.<sup>11</sup> This increased the power of those Senators who opposed a treaty, since amendments could be inserted or reservations added by a majority vote while the treaty in its entirety required a two-thirds majority. This tactic permitted the minority to bring about the defeat of a treaty by the indirect method of joining with some of the majority to pass amendments which, taken together, might in the end make the treaty unacceptable to some of those who had originally favored it. The new opponents plus the old might constitute more than one-third of the Senate. This method was utilized to defeat the Versailles Treaty in 1919.

Even during the Civil War there was trouble between the State Department and Congress. In 1864 the House made an effort to dictate a firmer policy against the French by adopting a unanimous resolution disapproving the overthrow of the Mexican government and its replacement by the monarchy of Maximilian backed by French troops. The Administration was not then prepared to take a firm line with the French, and Secretary of State Seward, protesting that this was executive business, disavowed the action in a note to the French government. The House persisted, however, and resolved that "Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognition of new powers as in other matters."<sup>12</sup> The resolution seems to have been ignored by the Secretary of State.

Few treaties were passed between the Civil and the Spanish-American Wars, and John Hay in 1898 "did not believe another important treaty would ever pass the Senate."<sup>13</sup> Fortunately, however, the *Alabama* Claims were finally settled by arbitration following the



Senate's approval of the conclusion of the Treaty of Washington with Great Britain in 1871. Thus did the Senate help to create a landmark in the peaceful settlement of international disputes.

Yet much of the good work was undone by the failure of the Olney-Pauncefote Treaty of 1897, a general arbitration treaty, signed after the Venezuelan boundary problem had added fuel to the fires of Anglophobia and seriously impaired Anglo-American relations. Good sense dictated that permanent machinery should be provided in advance. Each nation agreed to settle its future disputes according to several methods of arbitration provided by the treaty, but this wise move was blocked, not by partisanship, but by "that other potent destroyer of treaties, senatorial jealousy of its constitutional powers."<sup>14</sup> In fact, the new President, McKinley, was as staunch a supporter of the treaty as was his predecessor, Grover Cleveland. There was a vigorous expression of public approval, yet the Senate refused to budge. Thus began a period of two score years in which the executive branch failed to win Senate approval for its arbitration policy. The United States, in spite of the work of individuals such as Elihu Root, now tended to lag behind many nations in developing methods for the peaceful settlement of disputes, until the Second World War and the development of the United Nations. In spite of continued leadership by prominent Americans in this period, every attempt to create machinery for peaceful settlement evoked a spirited defense by the Senate of its treaty-making power, so that general arbitration treaties were rejected or mutilated beyond recognition. Jealous of its prerogative in foreign affairs, the Senate refused to have the United States agree in advance that all disputes or even a class of disputes, such as disagreements arising under the terms of a particular treaty, should be settled by arbitration. Anxious to curb the executive's freedom of action, the Senate felt that each dispute should be considered afresh and submitted to arbitration only if the Senate had approved a *compromis* or agreement to arbitrate in each instance.

The Olney-Pauncefote Treaty was described in the *New York Herald* as having been rejected "in opposition to the will of the



people of the United States." Certainly its defeat indicated the importance the Senate attached to its prerogatives. Olney wrote to Henry White at the Embassy in London his explanation of the defeat of the Treaty:

In the first place it must be borne in mind that the Senate is now engaged in asserting itself as the power in the national government. It is steadily encroaching on one hand on the House of Representatives . . . This aggressive attitude of the Senate towards other departments of the government is largely responsible for the treatment it has given the General Arbitration Treaty . . . The treaty in getting itself made by the sole act of the executive, without leave of the Senate first, had committed an unpardonable sin. It must either altogether be defeated or so altered as to bear an unmistakable Senate stamp . . . and thus be the means both of humiliation to the executive and of showing to the world the greatness of the Senate.<sup>15</sup>

Other reasons have been advanced for the defeat of this treaty, but Sir Julian Pauncefote wrote his government that

the Senate, in its jealousy of the Executive, absolutely disregarded public opinion. It determined to retain absolute control over every case of arbitration, and for that purpose to destroy the treaty by amendments which reduce it to a mere agreement to arbitrate any dispute, provided it be with the consent of the Senate, and on such terms and on such conditions as the Senate might choose to prescribe.<sup>16</sup>

The weakness of the chief executive was illustrated in this period by the Senate's rejection of two treaties with the Dominican Republic which had been signed in 1869 on the personal insistence of President Grant, who exerted great efforts to win over the Senate and especially Charles Sumner, chairman of the Foreign Relations Committee. Party lines were not strong enough, however, to haul the committee and its chairman into line behind the Administration's program. Sumner, having incurred the enmity of the President, was finally removed as chairman, a step that contributed to the settlement of the *Alabama* Claims.

A treaty of February 1888, providing for a settlement of north-eastern fisheries with Britain, was defeated in the Senate by a strictly

party vote, a contingency not anticipated by the framers of the Constitution. The fact that this was the first treaty to be considered in "open executive" session enhanced the opportunities for making political capital in a presidential-election year by the expression of anti-British sentiments. In addition, constitutional arguments were advanced because it was charged that the negotiators had not been appointed by and with the consent of the Senate.<sup>17</sup>

The discouragement of John Hay is not hard to understand. Prior to the outbreak of the Spanish-American War the Senate refused twice to sanction the annexation of Hawaii by treaty; thus, following the precedent of the Texas case, annexation had to be effected by joint resolution of both houses.

Other matters of foreign policy were also sources of contention between President and Congress. For many years there was heavy public pressure to exclude Orientals from the United States. Discrimination was rife in the employment, education, and housing of Asiatics. Here "domestic policy" formulated by both Congress and the states impinged directly on foreign policy. Congress, for example, passed a law in 1879 forbidding ships to bring more than fifteen Chinese citizens to the United States at one time. President Hayes immediately vetoed the measure as contravening the Burlingame Treaty of 1868, which permitted unrestricted Chinese immigration.<sup>18</sup> On these matters the Western states spoke in the Senate with a voice equal in power to that of the more populous Eastern states.

Legislative-executive relations also left much to be desired in connection with the Cuban independence problem. Both the House and Senate tried at times to force the President's hand, and there was little coöperation in the formulation of policy. Expansionist and humanitarian sentiments in Congress, fanned by a jingoistic press, succeeded in forcing the Spanish-American War on President McKinley after failing to budge President Cleveland. Following the presidential election of 1896, won by the Republicans on a platform calling for the independence of Cuba, Congress attempted to pass a resolution granting recognition to Cuba, but Secretary of State Olney at once insisted that the power to recognize the so-called

Republic of Cuba as an independent state rested exclusively with the Executive.<sup>19</sup> President Cleveland warned that if the Congress should declare war, he would refuse to mobilize the army. Congress also attempted to force a recognition of Cuban belligerency by concurrent resolution, a step ignored by President Cleveland. Although McKinley and his supporters in "big business" seem to have sincerely wished to avoid war, the pressure of public opinion, inflamed by the new "yellow" press, became increasingly heavy. Along with Republicans in Congress, McKinley realized that moderation might jeopardize the chances for a Republican victory at the polls in 1900. Under such circumstances, there was little chance for diplomacy to find a way out. In spite of the fact that the Spanish Government had already capitulated to many of the demands of the United States, McKinley finally sent a message to Congress in which he requested authority to use the army and the navy to end hostilities in Cuba. Eight days later, on April 19, 1898, Congress passed a joint resolution that amounted to an act of war. While the President was ready to intervene, he was opposed to recognizing the Cuban insurgent government. The joint resolution, however, directed the President to expel Spain from Cuba and declared that the people of Cuba ought to be free and independent.<sup>20</sup> This joint resolution was signed by the President, and Congress declared war a few days later. It should be added that the joint resolution had incorporated the Teller amendment, which disclaimed any intention of the United States to annex Cuba.

Suffice it to say that the President and Congress frequently worked at cross-purposes in this period, and that Presidents and Secretaries of State were frequently embarrassed by Congressional behavior over which they had little control. The coming of the war with Spain high-lighted other problems. Domestic politics, public opinion, and yellow journalism had become crucial elements in molding foreign policy.

## CHAPTER SIX

# *A New Role in World Politics*

*The years since 1898* have, in some respects, resembled the first half-century of this nation's history. Foreign affairs once again were frequently the dominant issue of the day, and at the same time the authority of the chief executive tended to increase. This development, however, did not go unopposed. Even the strong leadership of Theodore Roosevelt was challenged by a Senate anxious to retain its ascendancy achieved during the course of nearly a century of isolation.

The United States is generally considered to have reached the status of a world power by the turn of the century. Were governmental procedures equal to the task? Brooks Adams thought not:

Our national corporation [he wrote] was created to meet the wants of a scanty agricultural population at a time when movement was slow . . . In America there is no administration in the modern sense of the word. Every progressive nation is superior to us in organization since every nation has been reorganized since we began.<sup>1</sup>

The Spanish-American War, he thought, showed the need of a general staff. The United States, he predicted, would be the economic center of the world. If armed, it might be a "seat of empire."

But to maintain such an empire presupposes an organization perfect in proportion to the weight it must support and the friction it must endure; and it is the perfecting of this organization, both military and civil, which must be the task of the next fifty years.

Legislative-executive relations in the conduct of foreign policy might have been singled out as an aspect of American government that was not all that it might have been. Far Eastern affairs and the arbitration of international disputes were two matters that proved troublesome in this respect.

### *The Philippines*

The American acquisition of the Philippine Islands affords an illuminating case study of decision-making in foreign affairs in this period. This important step seems to have been taken without any systematic examination of its implications for the strategic interests of the United States by either the executive or the legislative branch. Indeed, American embroilment in the Far East was largely unpremeditated and unplanned save for the thinking of a few key figures imbued with the imperialist sentiments of their time.

Theodore Roosevelt, a disciple of Admiral Mahan, was Assistant Secretary of the Navy in the days prior to the war with Spain. Owing to the absence of his chief one afternoon, he found himself in a position to order the Far Eastern Fleet of the United States to Hong Kong with orders to keep the Spanish fleet pinned to the Asiatic coast and to take "offensive operations" in the Philippines in the event of war.<sup>2</sup> This action was taken without consultation either with the President or with Secretary of the Navy Long. It obtained the support of a group of close friends and Republican leaders, among them Senators Lodge and Beveridge, who had advocated "a large policy" for the United States in the Far East, including the possible retention of the Philippines. Such a course, however, elicited little support from President McKinley or Secretary of State Day.

After the battle of Manila Bay, public opinion shifted in favor of these Republican admirers of Mahan, but the crucial decision to keep the Philippines was not really made until the peace negotiations at Paris were under way. The decision was not the result of a carefully coördinated policy for the Far East. It was heavily influenced by individuals who had nothing to do with the Department of State, the Diplomatic Service, or the White House. While debate on the



treaty of peace was held in executive session in the Senate, it is known that the issue of the Philippines was argued on constitutional and humanitarian grounds with little reference to the security interests of the United States.<sup>3</sup>

Similarly, there is evidence that President McKinley did not make up his mind on the basis of an estimate of the situation by his military and foreign-policy advisers. We are told that he "walked the floor of the White House night after night . . . and prayed Almighty God for light and guidance." Finally in a flash of divine inspiration he concluded that it would be "cowardly" to return the Philippines to Spain, "bad business" to give them to France or Germany, that they were "unfit" to govern themselves and that

there was nothing left for us to do but to take them all, and to educate the Filipinos, and uplift and civilize them and Christianize them, and by God's grace do the very best we could by them, as fellowmen for whom Christ also died, and then I went to bed, and went to sleep, and slept soundly.<sup>4</sup>

It is true that the President was speaking for the benefit of a delegation of visiting clergymen. It is also true that good reasons could be advanced in terms of American security interests for the retention of the Islands, which would otherwise have been a bone of contention among the powers of Western Europe jockeying for position along the coast of Asia. But American interests appear not to have been fully defined or agreed upon by Republican leadership in the Senate and the White House. The American public, therefore, had little understanding of the issues at stake. One result of this omission was that later Presidents and their military advisers could not convince the public or Congress of the strategic importance of the Philippines. In the years to follow, the American military position in the Western Pacific was starved by meager appropriations and rendered untenable, as the events of 1941 demonstrated.

The treaty of peace with Spain was an important landmark in a period when John Hay thought the Senate would never pass another treaty owing to the "irreparable mistake of the Constitution," the two-thirds rule. No important treaty had been ratified for a quarter



of a century, but this one passed the Senate with two votes to spare. A close fight had been anticipated, and McKinley took the then unusual step of naming Cushman K. Davis, chairman of the Foreign Relations Committee, and Senators William P. Frye and George Gray to the Commission to negotiate the peace in Paris in 1898.<sup>5</sup> Senator Lodge, not foreseeing the role he was to play twenty years later, wrote to Theodore Roosevelt:

We are going to have trouble with the Treaty. How serious I do not know, but I confess I cannot think calmly of the rejection of that Treaty by a little more than one-third of the Senate. It would be a repudiation of the President and humiliation of the world, and would show we are unfit as a nation to enter into great questions of foreign policy. I cannot believe that the opposition which is of course composed of Southern Democrats can succeed.<sup>6</sup>

While party lines were reflected in the vote to approve the treaty, a number of independent supporting votes were required owing to the two-thirds rule; they were forthcoming when Bryan surprised his adherents by supporting the treaty. The outbreak of the Philippine insurrection and the dispensing of political patronage to *both* parties seem to have been of less consequence.

What is important is the fact that the Senators who voted at [Bryan's] request and against their judgment were voting for political reasons fully as much as the majority of the Republican Senators who stood by the administration and the majority of the Democrats who opposed it.<sup>7</sup>

Few treaties, in fact, have been considered apart from partisan loyalties by the American Senate.

### *China and Korea*

The China policy of the United States in the first decades of the twentieth century consisted of four main strands: the open door, territorial integrity, nonintervention, and collective action among the powers in support of the first three of these principles.<sup>8</sup> In the main these were the result of executive initiative. Yet Congressional support was required to implement them, but the views of the two branches were scarcely coördinated.

The open-door notes of Secretary of State John Hay in 1899 were first intended to maintain equality of commercial opportunity in China at a time when the European powers were busily carving out spheres of influence. While this policy was announced by the Secretary of State, it was in some measure made possible by the influence of Senator Lodge, who favored Anglo-American coöperation in world affairs. Although the British gave it only grudging support, the policy was partly the result of British efforts to bring the United States into the balance of forces in the Far East. Not until the aftermath of the Boxer Rebellion in 1900 and continued big-power rivalry in China was the policy of the open door expanded from equality of commercial opportunity to include the territorial integrity of China. In July 1900, Hay announced that the "policy of the . . . United States is to . . . preserve Chinese territorial and administrative entity . . . [and] safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."<sup>9</sup>

The increasing American commitments in the Far East required greater military support, but President McKinley was anxious, for domestic political reasons, to withdraw the Marines from China after the rescue of the legations in the Boxer Rebellion. Broader issues of world politics of which China was only a part soon caused Britain to seek the friendship of Japan in the Treaty of 1902. The price of friendship was the mutual recognition that while *both* countries had special interests in China, Japan alone had such interests in Korea. "England had abandoned Korea to Japan."<sup>10</sup>

President Theodore Roosevelt, closely associated with foreign diplomats in his "Tennis Cabinet," now entered the field as his own Secretary of State. Executive authority was utilized in a manner that, when publicized, could not have been better calculated to arouse Senate resistance. Roosevelt used his good offices to bring about the Treaty of Portsmouth, which continued the policy of territorial integrity by pledging Russia and Japan to restore Manchuria to China and to permit equal commercial opportunity to all nations in that region.

It was soon obvious that Japanese influence in Asia was increasing in proportion to Russia's decline. By a series of executive agreements the United States sought to maintain its position in the Far East in relation to the other Great Powers but was forced to retrench even prior to the Russo-Japanese War. Hay, in fact, had already been obliged to concede that Manchuria was less an integral part of China than a province of the Czar and at one time he actually considered securing American naval bases in China.<sup>11</sup>

Roosevelt, too, was forced to face the realities of power in the Far East. Where Hay very nearly abandoned Manchuria to Russia, Roosevelt now abandoned Korea to Japan as insurance for the Philippines. A secret memorandum resulted from the talks in 1905 between Secretary of War Taft and Japanese Prime Minister Katsura. Yet American diplomatic officers in the Far East were not informed. Without benefit of Senate consultation or a treaty, the United States was committed for all practical purposes to a free hand for Japan in Korea in return for unmolested control of the Philippines.<sup>12</sup>

The actions of "T.R." to restrain Japanese power in the Far East had important consequences for the United States in the long range. This is not to say, however, that the problems of the Far East arose primarily from unchecked executive action by the United States. They resulted from the whole context of world politics. But the implications of policy established by executive action that was often secret were not understood by Congress or the electorate, which had the power in later years to make our Far Eastern position untenable.

The next significant effort to curb Japan was the Root-Takahira Agreement of 1908, signed by the Secretary of State and the Japanese Ambassador, in which both countries agreed not only to maintain the *status quo* in the Pacific but also "to uphold the Open Door in China" and the "independence and integrity" of that country. This, however, could be interpreted to mean that Japan had a relatively free hand in Manchuria and that the United States had retreated further from the principle of the territorial integrity of China.<sup>13</sup> The agreement was concluded by an exchange of diplomatic notes.

Although it was not a treaty, it is significant that Root communicated its terms to the Senate.

Further negotiations became necessary when the United States and Japan became allies in the First World War. An agreement in November 1917 between the American Secretary of State and the head of a Japanese war mission (Lansing-Ishii Agreement) recognized both that "Japan had special interests in China" and that "the territorial sovereignty of China, nevertheless, remains unimpaired."<sup>14</sup> This studied ambiguity coupled with weak American defenses in the Western Pacific and the Philippines could scarcely be expected to restrain Japanese expansion into China in the years to follow.

This Agreement, which was kept secret, remained in force until the Nine-Power Treaty of the Washington Conference in February 1922, in which the signatories, other than China, agreed to maintain both the "open-door" policy and "territorial administrative integrity" of China. The related Five-Power Naval Treaty provided for the reduction and limitation of naval forces in the Pacific together with the nonfortification of Pacific bases. A Four-Power Treaty abrogated the Anglo-Japanese Alliance and provided for nonaggression pledges respecting the Pacific possessions of the United States, England, Japan, and France.

The example of Presidents Madison and McKinley was followed by President Harding, a former member of the Foreign Relations Committee, when he appointed Senators Lodge and Underwood, respectively chairman and minority leader of that committee, as United States delegates to the Washington Arms Conference of 1921. The fact that the Senate rejected emasculating amendments and approved the Conference treaties by comfortable margins, in contrast to its action with regard to the Treaty of Versailles, indicates not only that disarmament was also favored by isolationists like Borah but that the practice of using Congressmen as delegates paid off.

Secretary of State Hughes was in constant touch with the other members of the American delegation. It became evident that Lodge,

once the author of the "large policy" of 1898, reflected the overwhelming sentiment of Capitol Hill against the appropriations that would have been necessary to sustain the naval bases and forces implied in the policies of the "open door" and "integrity of China." Because Hughes was apprised of this Congressional and public sentiment, he stressed the limitation of naval armaments and the nonfortification of the Pacific islands. The alternative of building up sufficient American strength to support policy commitments appears not to have been feasible. It was obvious to him, as it had been earlier to Hay and Roosevelt, that the American people were not ready, in times of "peace," to support a policy in Asia that required the maintenance of large military forces.<sup>15</sup> The efforts of Hughes to protect American interests by obligating all Pacific powers to limit armaments, however, were of little avail, as Japanese expansion in the thirties was to show.

*Arbitration and Other Matters*

Sir Julian Pauncefoot again witnessed the exercise of the Senate's prerogative to amend treaties—in this case the Hay-Pauncefoot Treaty of 1900 authorizing the United States to construct an inter-ocean canal while retaining the principles of the Clayton-Bulwer Treaty regarding neutralization and the prohibition of fortifications. Senate amendments proved unacceptable to Great Britain, and President McKinley gave little support to his Secretary of State. The incident has been cited in support of the two-thirds rule, since the second Hay-Pauncefoot Treaty, incorporating most of the Senate's earlier demands, was hastily accepted by a Britain considerably chastened by the Boer War and growing German power.

John Hay had the misfortune to encounter the Senate in one of its most assertive periods. Yet it may be that he aggravated these difficulties. He is alleged to have considered it beneath the dignity of the Secretary of State to appear before Congressional committees.<sup>16</sup> In this period the Senate Foreign Relations Committee even went so far in one instance as to supplant the State Department by negotiating directly with a foreign government.<sup>17</sup>



Under the circumstances, it is not surprising that the ten arbitration treaties negotiated by John Hay in 1904-05 never came into existence. They were of a general compulsory character, but the Senate amended them so as to require that each *compromis* be considered as a separate treaty before a dispute might be submitted to an arbitral tribunal,<sup>18</sup> destroying the automatic feature of the machinery which had been Hay's objective. The Senate's amendments were opposed by Roosevelt, who refused to refer them back to the other signatory states.

The relation of Hay with the Senate was doubtless affected by the behavior of Theodore Roosevelt who successfully overrode the Senate in 1905 by effecting a customs-house agreement with Santo Domingo by an executive agreement without the consent or the knowledge of the Senate.\* Hay's compulsory arbitration treaties were largely victims of the Senate's resentment at what it considered to be an invasion of its prerogative by an independent and strong President who interceded at the Algeiras Conference, mediated the Russo-Japanese War, intervened in Panama, and sent the fleet on a voyage around the world, challenging Congress to refuse to appropriate the necessary funds to bring it home again.

United States participation in the two Hague Conferences of 1899 and 1907 is an example of relatively independent action by the President—with the tacit consent of Congress. In both cases Presidents McKinley and Theodore Roosevelt respectively did not obtain specific Congressional authorization to participate in the conferences nor Congressional approval of their appointees to the conference delegations. Later the generally isolationist spirit of the Congress undoubtedly was a major factor in our insisting that reservations should be made in signing the Hague Conventions to the effect that

\* "The Constitution did not explicitly give me power to bring about the necessary agreement with Santo Domingo. But the Constitution did not forbid my doing what I did . . . But it was far preferable that there should be action by Congress, so that we might be proceeding under a treaty which was the law of the land . . . I went ahead and administered the proposed agreement anyhow, considering it as a simple agreement on the part of the Executive which would be converted into a treaty whenever the Senate acted." Theodore Roosevelt, *An Autobiography* (New York, 1913), pp. 551-552.



they should not interfere with our noninterventionist policy or the Monroe Doctrine. These reservations were included in the Senate resolutions approving the Conventions.

The methods of Elihu Root as Secretary of State stand out in sharp contrast with those of John Hay. Senator Cullom, chairman of the Foreign Relations Committee, sought to bring about closer relations between the committee and the State Department than had been possible during Hay's incumbency. He found both the President, who was beginning to feel the need for senatorial support, and Secretary Root in strong sympathy with his views and wrote that Root

became so constant and punctual in his attendance at the meetings of the Committee that we grew almost to regard him as a regular member, even before he entered the Senate.<sup>19</sup>

Roosevelt wrote to Lodge that although Root did not have the "peculiar literary distinction which gave to John Hay's dispatches their charm," he believed that "he will get on well with the Senate," that he (Roosevelt) was "anxious to establish good relations which will prevent the need of incessant amendments of treaties" and that it was

eminently desirable that the State Department shall be in close touch with the Senate Committee on Foreign Affairs that they shall be able to agree in substance in advance of what shall be done in treaties . . .<sup>20</sup>

As a consequence, the Root treaties of arbitration embodied in some measure the Senate amendments to the Hay treaties and were approved by the Senate unconditionally and at once. In these pacts disputes involving the "vital interests, the independence, or the honor of the two contracting states" were excepted. A special treaty, moreover, was required for each arbitration.

President Taft, however, was eager to make further progress in establishing law and order throughout the world. He and Secretary of State Philander Knox sought broader arbitration pacts. Treaties were signed with both Britain and France in 1911, providing for the

arbitration of all "justiciable" questions, not even excepting "vital interests" and "national honor." Once more an effort to extend the scope of arbitration was killed by Senate amendments in spite of the fact that public opinion appeared to be strongly in favor of the President. Led by Henry Cabot Lodge, many important questions were exempted from arbitration before the Senate approved the treaties. In the words of one writer: "Partisanship, wounded dignity, and jealousy of senatorial prerogative all entered into the picture."<sup>21</sup> The treaties were so mutilated that the President refused to complete ratification.

The Senate, however, did support the next step in the efforts of the executive branch to promote the pacific settlement of disputes by approving the Bryan Conciliation Treaties negotiated in 1913 and 1914. Such treaties presented somewhat less of a challenge to senatorial prerogative. Yet the Senate's favorable response may well have been due, in part, to Bryan's skilful presentation of the executive's case.

In fact, personality counted heavily in making or breaking satisfactory relations between the State Department and the Senate. Root, for example, was a man of affairs, and he had learned while Secretary of War that it was important to establish a good working relation with members of both the Senate and the House. Unhampered by the dignity of his office or the idiosyncrasies of diplomatic behavior, Root's success appears to have followed his ability to get along with men. It is significant that with the good will of Congress he was able to effect, among other things, important reorganizations of the War Department, the Consular Service, and the Diplomatic Service.

Although rebuffed in the matter of arbitration, Knox got along better with Capitol Hill in other respects. In seeking legislative support for important internal reforms and reorganization in the State Department, he laid before Congress a general survey of international problems confronting the Administration. He soon received the necessary appropriations. This incident highlights the fact that Congressmen often feel hostile toward the Department of State

simply because they are unfamiliar with the United States position in international affairs.

Some conclusions can be drawn from a survey of legislative-executive relations in the conduct of foreign affairs in the first two decades of the twentieth century.

First, the Senate and the President were not infrequently working at cross-purposes. While it is true that a case can be made for either the President's or the Senate's attitude on arbitration, the result of interbranch warfare was that United States foreign policy on this matter was fickle and confused. Other powers might well have been reluctant to engage in commitments with the United States. The separation of powers had given rise to practices in the formulation of foreign policy that led the United States to speak with more than one voice on many world problems.

Second, the extraordinary exercise of executive authority in the Far East resulted in little public understanding of the issues at stake. Partly because the executive played its hand close to its chest, there was little clarification of problems through public and Congressional debate. When the Senate did seek to regain the initiative, spurious issues were as likely to be raised in debate as real ones. Yet the United States could not play a role of any consequence in Asia without public and Congressional support. Too little attention was paid to the problem of harnessing together the coördinate authorities of the President and the Senate.

## CHAPTER SEVEN

# *The Treaty of Versailles and the World Court*

*No international issue* has ever shaken our system of separated powers so rudely or confronted the American people with so many disturbing questions concerning the impact of that system upon our foreign policy as the storm that raged over the question of our participation in the League of Nations. While the system of separated powers cannot be accused of having planted the seeds of partisan animosity in the hearts of the political leaders who were the chief actors in that drama, it certainly did nothing to curb those passions but tended rather to encourage them. When the League project was finally defeated, it was clearer than ever that no foreign policy program dependent on a treaty can be implemented within our present constitutional framework except through intimate bipartisan coöperation between the two branches.

### *Political Prologue*

A major obstacle that made executive-legislative collaboration extraordinarily difficult on the League issue was the poisonous antagonism—a mixture of partisan and personal considerations—that existed between President Wilson and two of the strongest Republican leaders, Senator Henry Cabot Lodge and ex-President Theodore Roosevelt. Lodge's attitude was shaped by many factors: his intense interest in having the Republicans win control of Congress in the elections of 1918 as well as his hopes for the presidency in 1920; his accusation in 1916 that Wilson had secretly undermined

the United States position regarding the sinking of the *Lusitania*, which brought a furious reply from Wilson that Lodge had lied; the fact that Wilson refused shortly thereafter to speak from the same platform with Lodge, which ended all cordiality between the two men; and Lodge's subsequent speech in February 1917 indicating that he had clearly parted company with Wilson on the idea of a League of Nations which both men had endorsed at the same League to Enforce Peace meeting in May 1916. Roosevelt's prejudice against Wilson, which was characteristically aggressive and unrestrained, arose partially out of his frustrated political ambitions of 1916, his contempt for Wilson's austere personality, Wilson's refusal in April 1917 to allow him to lead a division of Rough Riders against the Huns, and Roosevelt's failure at the end of 1917 to force a coalition cabinet upon Wilson. The President's own distaste for both Lodge and Roosevelt grew out of his reaction not only to their political views but also to their personalities and their constant attacks upon his administration.

Although these and other centrifugal forces were restrained by the wartime pressure for patriotic unity, once victory seemed certain, the political lions began to roar again. As early as May 1918 Roosevelt and William Howard Taft met to bury their hatchet and to call for a Republican victory in the fall. And by the middle of October Roosevelt was urging the American people to "repudiate the so-called fourteen points."<sup>1</sup> To spike the Republican guns various Democratic leaders asked Wilson to make a statement supporting their candidates. This he did in his ill-fated appeal to the country of October 24, 1918, in which he tried to be tactful by saying, "I have no thought of suggesting that any political party is paramount in matters of patriotism." But he also urged the voters to support his leadership "by returning a Democratic majority to both the Senate and the House of Representatives."<sup>2</sup> While Republicans replied with loud cries that the President was muddying the waters of statesmanship with cheap politics, Wilson's defenders reminded their opponents that Lodge, speaking in 1898 regarding McKinley's reelection, had made a similar appeal, saying



If we give a victory to his political opponents, we say not only to the United States but we say to the world, we say to the Spanish Commissioners in Paris, that the people of the United States repudiated the result of the war and repudiated the man who has led it victoriously and is now leading us back to peace.<sup>3</sup>

In spite of these and other precedents, however, it now seems unfortunate, with the benefit of hindsight, that Wilson did not think first of the need for bipartisan support in the Senate for the future peace treaty and did not work as hard for that kind of support as President Franklin Roosevelt and Secretary of State Hull were to work during and after the election of 1944 in preparation for the passage of the United Nations Charter. The final outcome of the 1918 election was that the Republicans won a slim majority of two in the Senate, although they did not approach the strength apparent in the earlier Roosevelt or the later Harding-Coolidge eras.

### *Planning for Paris*

Another unfortunate weakness in the campaign for a League of Nations was the fact that Wilson—partly because of these deep partisan currents and partly because of certain blind spots in his own thinking—failed to give either Congress or the general public any real sense of participation in the planning and negotiating processes. One basic reason for this was Wilson's own cautiousness in making up his mind on the issue. While Roosevelt had trumpeted loudly for a "League of Peace" to prevent aggression, "by force if necessary," as early as 1906, Wilson did not clamber on the bandwagon until May 1916, when he and Henry Cabot Lodge both took the pledge at the League to Enforce Peace meeting. Even after the President had reached his decision, however, the more detailed planning was done largely by him, House, and a handful of personal advisers, inviting as little publicity as possible, and did not take any very positive form until a few months before the Peace Conference. No executive-legislative liaison on this matter was organized in any form approaching the Advisory Committee on Post-war Foreign Policy which was to tie leading Congressional and



private figures to the Roosevelt Administration's planning for the United Nations.

Another aspect of this difficulty was Wilson's failure to build a strong bridge between Congress and the United States delegation to the Conference. This was not because the President ignored the issue. On the contrary, he and his advisers were all too aware of the desirability of keeping in close touch with the legislators, but many obstacles seemed to loom before them. To begin with, Henry Cabot Lodge, Republican leader in the Senate, would have been an obvious choice to go along. But here the personal tensions made Wilson feel that Lodge would do less harm at home than at the Conference, an assumption that may not have been altogether correct. Two other leading Republicans, William Howard Taft and Elihu Root, received more friendly consideration but were finally not tapped because Wilson decided that they were not sufficiently in harmony with his views. Ironically enough, however, he was later to welcome their advice on amending the draft covenant. Finally the President decided, without consulting some of his closest advisers, such as Josephus Daniels, to invite Henry White, a Republican, distinguished diplomat, friend of Lodge and Roosevelt, but a man who had been out of the country for many years and who had no real strength in the Republican organization. Besides White, Wilson also chose House, Secretary of State Lansing, and General Tasker H. Bliss.

In the process of making up his mind on this issue, Wilson developed the convenient theory that it would have been wrong to invite a Senator to go along because that would have allowed a "double vote"—once at the Conference and once in the Senate. Just why this could not be tolerated was never explained to the satisfaction of many commentators, especially since the legislators whom McKinley had chosen in 1898 to settle the Spanish-American conflict had been so useful at both the peace conference and in the Senate. One can understand Wilson's reluctance to clasp Lodge to his bosom, but that scarcely proves his thesis on the "double vote." Probably his best choice would have been Taft, and it now seems

unfortunate that he felt it so necessary to make certain that all members of the delegation shared his own particular views. Certainly Vandenberg and Stassen, though their ideas differed in some respects from those of the Administration in 1945, were of far greater help than hindrance at the San Francisco Conference.

### *Negotiating the Treaty*

Even before Wilson left for Paris, the most intense Republican critics began to try to hobble him by warning the Allies that the President did not have a united nation behind him. Roosevelt went so far as to declare on November 27, 1918, five days before Wilson embarked: "Our allies and our enemies and Mr. Wilson himself should all understand that Mr. Wilson has no authority whatever to speak for the American people at this time . . . The newly elected Congress comes far nearer than Mr. Wilson to having a right to speak the purposes of the American people at this moment."<sup>4</sup> Lodge gave Henry White a guiding memorandum urging that a harsh peace be imposed on the vanquished and that the proposed league by no means be made a part of the peace treaty. He also suggested that White confidentially show this memorandum, as the true sentiment of the American people, to Clemenceau, Lloyd George, and Nitti. White never acted upon this suggestion, which would have seriously undermined Wilson's position.

About December 17 and 18, only a few days after the President had arrived in Europe amidst unprecedented popular acclaim, Lodge went to Roosevelt's hospital bedside and planned a strategy of attack including agreement on amendments aimed at subverting the kind of league that Wilson was known to favor. Roosevelt's total opposition to such a league was demonstrated by his statement during that meeting that it would be a "war breeder rather than a peace maker."<sup>5</sup> A few days later, on December 21, Lodge opened this anti-League campaign in the Senate by saying of the prospective peace treaty: "I can conceive of extraneous provisions . . . being unwisely added, provisions which would surely be stricken out or

amended, no matter how many signatures might be appended to the treaty.”<sup>6</sup> All of this took place three weeks before the Peace Conference even convened.

Unfortunately Wilson and his advisers did very little to counteract this and subsequent Congressional sniping during the negotiations. No aggressive educational campaign was undertaken to influence Congressmen and their constituents at home. The only vigorous effort along these lines was the remarkable missionary work performed by the nongovernmental League to Enforce Peace, led by ex-President William Howard Taft, which received very little information or coöperation from the Administration. Then the decision of the Peace Conference to keep its meetings secret and to dispense only the most dehydrated bits of official press releases infuriated not only the 150 top American correspondents, who had descended upon Paris to witness the making of “open covenants openly arrived at,” but also the sensitive Congressmen in Washington.

It is true, however, that Henry White, alarmed by Lodge’s blast of December 21, began to write full reports to the Senator on all major issues and to urge him to support the League, but Lodge seems never to have been influenced by these communications. There was also a considerable flow of correspondence between other members of the delegation and their friends, including Congressmen, but that was only a trickle when a flood was needed.

### *First Trip Home*

On February 15, 1919, Wilson left Europe to attend the closing of Congress and to present the draft Covenant to the American public. Although he had originally thought that it would be enough to make a formal statement to Congress, House persuaded him to cable the members of not only the Senate Foreign Relations Committee but also the House Foreign Affairs Committee to invite them to dine with him as soon as he returned. He also added the request that “I be permitted to go over with you, article by article, the constitution before this part of the work of the conference is

made the subject of debate in Congress"<sup>7</sup>—a futile request as events turned out. After the text of the Covenant was published in the press on February 15, the Congressional attack began on February 19, four days before Wilson landed in Boston, the home territory of Senator Lodge. When the President finally arrived he proceeded to rub salt in the Congressional wounds by saying of the isolationist opposition: "I should welcome no sweeter challenge than that. I have fighting blood in me, and it is sometimes a delight to let it have scope, but if it is a challenge on this occasion it will be an indulgence."<sup>8</sup>

It was on February 26 that Wilson had dinner with the members of the House and Senate committees and discussed the League issue thoroughly and tactfully, but without altering the views of any of the legislators. Nevertheless, this session was not altogether wasted effort since it strengthened the President's friends and gave both parties a full exposition of the facts. Such liaison should have been established much earlier. The ranking Republican member of the House Committee, John Jacob Rogers, wrote Henry White that Wilson had never seemed "so human or so attractive as that night" and that he handled his tormentors well.<sup>9</sup> But Senator Frank M. Brandegee, Connecticut Republican of Senator Lodge's persuasion, said: "I feel as if I had been wandering with Alice in Wonderland and had tea with the Mad Hatter."<sup>10</sup>

Two days later Lodge delivered a most restrained examination of the Covenant which was primarily an exercise in raising damaging questions and only at the end indicated that the Covenant was quite unsatisfactory.<sup>11</sup> This was merely the most subtle of a host of forays that were made against the Covenant. Then on March 2, Lodge read to the Senate the famous round robin signed by thirty-three Senators, exactly the number needed to block the treaty, which declared that "the constitution of the League of Nations in the form now proposed . . . should not be accepted by the United States" and that the first order of business should be to negotiate a peace with Germany.<sup>12</sup> Senators Sherman, France, and La Follette then conducted a filibuster to prevent the passage of the great appropria-

tion bills and force Wilson to call Congress into special session during his absence when the attack on the Covenant might be continued without the President's active intervention.

To try to stem this tide, Wilson telegraphed Taft to speak with him at the New York Opera House just before leaving for Paris. Although Taft had become quite exhausted as a result of his strenuous efforts in connection with the League to Enforce Peace, he accepted. Thus on the evening of March 4, Taft carefully dissected all of the issues involved, strongly supported the incorporation of the Covenant in the peace treaty, but at the same time urged the President to accept the useful suggestions in Lodge's speech of February 28. Wilson's address was one of firm support for a Covenant that should be included in the treaty because people in the United States would find "so many threads of the treaty tied to the covenant that you cannot dissect the covenant from the treaty without destroying the whole vital structure."<sup>13</sup>

### *Back to Paris*

Taft not only spoke in behalf of the President's efforts but a week or so later took the initiative of indicating to Wilson's personal aide in the White House, Joseph Tumulty, that he would like to submit some specific suggestions for revision. Wilson readily agreed, and Taft sent five proposals on March 18.<sup>14</sup> The Department of State then requested similar suggestions from Elihu Root, which were cabled to Paris on March 28.<sup>15</sup> But Lodge, in reply to an appeal from Henry White, refused to send any proposals, saying: "The President expressed no willingness to receive any communication from the Senate while that body was in session. If he now wishes to have amendments drafted which the Senate will consent to, the natural and necessary course is to assemble the Senate in the customary way."<sup>16</sup>

As a result of these suggestions, supported not only by Taft and Root but by other leaders of both parties, Wilson finally pressed for and won three amendments to the Covenant: right of withdrawal, prohibition of League intervention concerning "domestic"



disputes, and exclusion of the Monroe Doctrine from League jurisdiction. Unfortunately these requests, particularly the last, aroused extensive criticism abroad, added little of any real significance to the document, provided the Allies with an excellent lever with which to try to pry loose further concessions, and were a major factor in bringing on Wilson's sudden and violent attack of influenza, which proved to be merely the prelude to the collapse that the President was to suffer the following September.

If these compromises had been the product of a long-range executive-legislative coöperative process, they might have been worth the effort in terms of political support at home. As it was, they were too little and too late. When the amended version of the Covenant was published on April 28, Senator Lodge merely said, "It is obvious that it will require further amendments if it is to promote peace and not endanger certain rights of the United States."<sup>17</sup> On the following day Lodge met with Borah, the leading "irreconcilable," and the two men agreed that it was not practicable to try to defeat the treaty directly but that the best strategy was to "proceed . . . by way of amendment and reservation."<sup>18</sup>

To set the stage for the President's return, the new Republican majority proceeded, after Congress met in special session on May 19, 1919, to fill the four majority vacancies on the Senate Foreign Relations Committee with anti-League men and, in so doing, passed over pro-League Senator Kellogg, who Taft and others said should have been taken before the new Senator Moses. Of ten Republicans on the Committee, six represented the irreconcilables who comprised less than one-third of the Senatorial Republicans. To lead this formidable phalanx Senator Lodge was made chairman of the Committee.

The matter of publicity was also still a thorn in the side of the Administration. On June 3 Congress heard that an unauthorized copy of the treaty had passed from Thomas W. Lamont, financial adviser to the United States delegation, via J. P. Morgan and Company and Elihu Root, to Senator Lodge, but Wilson had agreed to delay official publication until the document had actually been

signed. Borah then obtained a copy from the *Chicago Tribune* and forced publication. This little episode was a classic and painful lesson in how difficult it is to enforce security regulations except through the closest executive-legislative collaboration.

*Wilson Returns with the Treaty*

On June 29, the day after the treaty was signed, Wilson set sail for home and arrived in New York on July 9, where he was received with great enthusiasm and where his references to the opposition were milder than they had been in Boston. On the following day he laid the treaty before the Senate and made it clear that he would be delighted to answer their questions whenever they so desired. In a press interview the same day he opposed amendments or reservations because they would involve endless delay and bargaining. The Senate debate began on July 14, whereupon Lodge proceeded to take two weeks to read the entire text of the treaty—78,000 words in all—to the Senate Foreign Relations Committee, most of whose members absented themselves during this performance. The Senator also demanded that Wilson deliver to the Senate the Treaty of Guarantee signed by the Big Three as compensation to France for her renunciation of her claims to the German Rhineland. The President finally submitted this treaty to the Senate, whereupon Lodge buried it in committee because he felt that “it would have been quite useless to [report it], even if the Committee had favored it, for I do not think there was the slightest chance that the Senate would ever have voted to accept it.”<sup>19</sup>

As the senatorial winds blew more furiously and it became more and more obvious that the treaty could not pass without substantial Republican support, Wilson reluctantly agreed to talk to about twenty Republican Senators, but he would not talk to Lodge nor to any of the other leading opponents of the treaty. Then on July 31, the Committee began to hold hearings on the treaty during which the majority members went out of their way to encourage the enemies of the Covenant, the most damaging of whom was William C. Bullitt. At the same time Lodge denounced the Presi-

dent's refusal to give the Senate the minutes of the Peace Conference Commission, which Wilson said the Allies had agreed to keep confidential. Again political capital was made over the question of security.

On August 12, Senator Lodge gave his first full-dress attack on the completed Covenant. He compared it to the nineteenth-century Holy Alliance and warned his excited listeners that Japan might hale us before the League on the immigration question, that we might be forced to help Japan whip China in Shantung, and that American boys might have to be sent to protect King Hussein of Hejaz from the Bedouins. Finally, he exclaimed:

I have never loved but one flag and I cannot share that devotion and give affection to the mongrel banner invented for a league. Internationalism, illustrated by the Bolsheviks and by the men to whom all countries are alike provided they can make money out of them, is to me repulsive.<sup>20</sup>

In this stormy climate the President met with the Senate Foreign Relations Committee in the White House, at the latter's request, on August 19, almost three weeks after the hearings had begun, and submitted to thorough grilling for three and a half hours. During that session he indicated that he would accept reservations if they were stated in a separate resolution. But the meeting seemed to change no one's mind. And all reservationists in the Senate soon indicated that it would not be enough to put such reservations in a separate resolution but that they must be attached to the treaty and consented to by the other signatories.

To overcome this growing tide of opposition, Wilson finally decided, nine days after the White House conference, to appeal directly to the people, as he had done with considerable success on other issues before and during the war. Thus, in spite of his doctor's desperate opposition, he set out a week later on an ambitious speaking tour through the West, knowing that it might well mean sacrificing his life. At last, on September 27, his body refused to serve his stubborn will any longer, and, in spite of his plea to be allowed to finish the tour, Mrs. Wilson, Dr. Grayson, and Tumulty

insisted on taking the partially paralyzed President back to Washington.

In the meantime, one week after the President had left on his tour, the Foreign Relations Committee, alarmed by Wilson's challenge, hastily sent its report to the Senate proposing some fifty-odd amendments but not directly rejecting the Covenant. On the other hand, as the time for voting approached, the Democratic leadership was seriously crippled not only by the collapse of the chief executive but by the fatal illness of the Senate Democratic leader, Senator Martin of Virginia, and the subsequent contest for his mantle between Senators Hitchcock and Underwood.

The first voting, between the middle of October and November 6, resulted in the defeat of all outright amendments. Then fourteen reservations, Lodge's answer to Wilson's fourteen points, were adopted by successive majority votes, a procedure which militates against those Senators intent on preserving a treaty intact and assists those eager to change or defeat it. Finally, at the eleventh hour, Taft's League to Enforce Peace decided to support the Lodge reservations, but Wilson insisted that his followers vote against them. Thus Democrats joined with irreconcilables to defeat the treaty with the Lodge reservations attached; the vote was 39 for and 55 against. Then the treaty without reservations was defeated by the irreconcilables, reservationist Republicans, and seven Democrats (38 for and 53 against).

Only as the dust began to settle after these votes did the great majority of Congress and the general public who favored our participation in the League, with or without reservations, realize that we might not participate at all. This sobering thought produced a tidal wave of sentiment in favor of some kind of compromise. A bipartisan conference was then initiated, but the irreconcilables helped to persuade Lodge not to budge appreciably from his position. Nor was he moved by Wilson's last conciliatory announcement on January 28 that he would accept certain mild interpretive reservations but not all the Lodge reservations, particularly the one negating

Article X. The final tragic scene took place on March 19, 1920, when the irreconcilables and a reduced contingent of pro-Wilson Democrats (23) succeeded in blocking the treaty with the Lodge reservations by a vote of 49 for and 35 against.

Reviewing this classic case history of executive-legislative conflict over foreign policy, the following considerations stand out as the major factors that undermined the inter-branch relationship. (1) A fundamental obstacle was the country's profound isolationist heritage, only slightly concealed by an unstable and superficial gloss of wartime internationalism, which the Administration made no intensive effort to overcome except for Wilson's ill-starred Western tour. (2) A personal element which made the separation of powers doubly dangerous was the almost pathological antagonism on the part of Lodge and Roosevelt toward Wilson. At the same time it should be remembered that other Republican leaders, especially Taft, respected and coöperated with Wilson in spite of the latter's shortcomings in the matter of public relations. (3) Then there was the inescapable biennial election which made it possible for the opposition party to seize control of the Congress. (4) Nor does Wilson seem to have been wise in making a strong partisan appeal on the League before the 1918 election when it was obvious that he would need Republican support to get the treaty through the Senate. (5) Furthermore Wilson was never successful in giving the general public or the Congress any genuine sense of participation in the planning or negotiating stage. The absence of any vigorous advance educational program, the lack of any continuing executive-legislative liaison, the inadequate composition of the delegation, and the unfortunate security tangles were particularly damaging to the League cause. (6) The lack of effective teamwork within the executive branch, especially between the White House and the Department of State, made it difficult for the executive branch to present a united front to Congress. (7) Then there were the Senate procedures which allowed the Foreign Relations Committee to be packed with anti-League men, which gave the chairman extraordinary powers to sabotage the treaty, and which allowed crippling



reservations to be adopted by mere majority votes. (8) Finally, the Administration failed to provide effective direction to its forces in the Senate because of the President's illness and the absence of clear minority leadership on the Senate floor.

#### WORLD COURT

The case of the Permanent Court of International Justice is an example of the difficulty of establishing an effective working relation between the President and the Senate even when the latter may be controlled by the President's own party. In spite of the fact that Republican President Warren Harding, a former member of the Senate Committee on Foreign Relations and an opponent of the League, advocated United States membership in the Court in February 1923, the senior Republican member of the Committee, Chairman Lodge, and Senators Borah, Brandegee, Johnson, and Moses—all strong anti-League men—took the lead in demanding, among other things, that the Court be entirely separated from the League and that it never issue an advisory opinion contrary to United States interests. Borah and others made it plain that they favored such reservations as the best way of defeating the plan and were instrumental, though they could not defeat it altogether, in getting the Committee to lay the issue aside until the following session of Congress.

In December 1923 President Coolidge urged adherence to the Court, but Lodge, in spite of the growing tide of favorable public opinion, said that the lack of a quorum and the volume of business kept the committee from considering the plan—an explanation that he later admitted was not altogether accurate.<sup>21</sup> Finally, in April 1924, the Committee began to hold hearings on the measure. Since 1924 was again an election year and since President Coolidge feared that Congress might adjourn without taking any action on the Court, he called a conference with the Republican members of the Foreign Relations Committee on May 20, 1924. The only result, however, was that the Committee passed a resolution—opposed by Coolidge—which would have required the signatories of the Court

Statute to agree to sever the tribunal from the League entirely. Congress then adjourned without further action.

After Coolidge's election in November 1924, and Senator Lodge's death, which gave Borah the Committee chairmanship, the President again urged adherence to the Court, and the Senate, impatient with the delaying tactics of the Court's opponents, voted a virtual discharge of the Committee when they decided, 77 to 2, that the Court should be taken up at the beginning of the next session. When that time came, it was only by voting a cloture to ward off a threatening filibuster that the Senate was able to pass, 76 to 17, the resolution of adherence, with severe limiting amendments and reservations, on January 27, 1926.

The nations who were members of the Court, however, would not accept all the reservations, and President Coolidge was not eager to reopen negotiations. Only after the election of President Hoover in 1928 did Coolidge announce to the Republican Senate leaders at a White House breakfast conference that he was going to send Elihu Root to reopen negotiations after Root had conferred with a number of prominent Senators of both parties. Even after a compromise plan had been agreed upon at Geneva, however, and presented to the Senate in December 1930, Borah vowed to defeat it. No further action was taken then until March 1932, when the Committee requested Secretary Stimson to tell them whether or not the new protocol accepted or altered the original reservations. The Secretary's answer was that the protocol "fully accepts the . . . reservations,"<sup>22</sup> but the Committee remained divided. Finally a resolution of adherence was adopted by the Committee on May 12, 1932, 11 to 9 (4 Republicans and 7 Democrats in favor, 8 Republicans and 1 Democrat against), but Congress adjourned before further action was taken.

When President Franklin Roosevelt finally decided to push World Court adherence in 1935, he called a party conference of Secretary Hull, Assistant Secretary Sayre, Chairman Pittman, and Floorleader Robinson to map out the campaign. When the Democratic-controlled Senate Committee on Foreign Relations reported out an ad-

herence resolution to the Senate, however, the Democratic leadership, which seemed to depend more on Floorleader Robinson than on Chairman Key Pittman of the Foreign Relations Committee, did not appear to be able to marshal sufficient strength to defeat the tremendous publicity effort organized by the opposition, spear-headed by such men as Father Coughlin and W. R. Hearst. When the vote came on January 20, 1935, the resolution was defeated by seven votes.

Throughout the struggle over the World Court, in spite of the fact that the President and a majority of the Senate were usually of the same party, there was not sufficient collaboration between the legislative and executive branches to pass the measure. Important factors in this matter were: first, a lack of informed public opinion; second, the survival of much anti-League sentiment; third, the lack of strong presidential leadership within the Congress on this particular issue; fourth, the extraordinary power of the chairman of the Committee on Foreign Relations during the days of Lodge and Borah and the lack of interest on the part of Pittman; and fifth, the unwillingness of the Senate to be bound to party lines on this important issue.

## CHAPTER EIGHT

# *Isolationism and Neutrality*

*After the debacle* of the Versailles Treaty, the United States sought a return to "normalcy." In foreign affairs the United States was essentially isolationist. Foreign policy, with the exception of the Western Hemisphere, generally turned its back on participation in world affairs. The United States, to be sure, had exerted effective leadership in the Washington Naval Conference, but by and large the national mood was not receptive to an active role in world politics. Congress, in the interwar period, normally held a tight reign on foreign policy. It became the focal point of isolationist sentiment that led to the neutrality legislation of the thirties. But Presidents also looked inward rather than outward. Americans were preoccupied at home with prosperity in the twenties and with depression in the thirties. When the dictators began to march, the President and Congress were often at odds about what to do to maintain national security. Only a few events need be considered to give the flavor of legislative-executive relations in this period.

Prior to the Pact of Paris (the Kellogg-Briand Pact), Secretary of State Kellogg prepared and submitted to the Senate Foreign Relations Committee a general arbitration treaty with France even before proposing it to that nation. He also consulted Borah and the Committee on all phases of the negotiations that led to the Pact, and it was Borah who steered it through the Senate.<sup>1</sup> It was reported in Washington that Kellogg could be seen every day ringing the doorbell of the Idaho Senator. The mere fact of legislative-executive collaboration in the formulation of policy is no assurance, however, that the policy will be sound. The Kellogg-Briand Pact, for

example, was inadequate for the trials of the years to come. Without constant consultation between the State Department and the Foreign Relations Committee, however, the United States might not have been able to make even this modest gesture toward participation in world affairs.

Legislative-executive relations in many other matters left much to be desired. Despite executive disapproval the Japanese Immigration Exclusion Act of May 1924 became the law of the land by Congressional enactment. The result was a deterioration of relations with Japan with no new advantage to the United States for the virtual exclusion of Japanese had been achieved by executive action through the Gentleman's Agreement of 1908. International relations were sacrificed on the altar of domestic politics.

During the Hoover Administration, it was difficult to reach any workable arrangement with regard to the war-debts problem since Congress was consistently opposed to cancellation.<sup>2</sup> Relations with Congress were particularly strained when the President lost control of Congress after the elections of 1930; nor were they improved when a rumor leaking from Congress forced the President to announce the debt moratorium before agreement had been reached with France.<sup>3</sup> Finally, over ten billion dollars worth of post-World War I debts were settled by executive agreements.<sup>4</sup>

President Hoover in 1930 appointed two Senators—Reed, a Republican, and Robinson, a Democrat—as delegates to the London Naval Conference. The teamwork of the delegation, which included two Cabinet officers—Henry L. Stimson and Charles Francis Adams, Secretaries of the State and Navy Departments respectively—and three Ambassadors—Dawes, Gibson and Morrow—not only bore fruit in London but was continued to secure ratification in the Senate by a 58-9 vote.<sup>5</sup> The efforts of Secretary of State Stimson and other members of the delegation were aided by the leadership of the President who, for example, called a special session after the Senate had adjourned without voting on the treaty.

Coöperation between the Senate and the executive, however, in no way lessened the influence of the Senate or threatened the sys-



tem of checks and balances. All through the London Conference, Stimson was guided by the necessity of getting the treaty through the Senate. For this reason he rejected suggestions that the United States undertake with the British a "consultative pact" against aggression in an effort to break the Franco-Italian impasse. The delegation, he realized, wisely or unwisely must limit its objectives to "parity" with the British and, if possible, progress toward disarmament.

A limited degree of coöperation with the League in coping with the Manchurian problem was made possible by careful cultivation of the Senate Foreign Relations Committee by Secretary Stimson. Collective action in the form of a League of Nations resolution incorporating the Hoover-Stimson doctrine of nonrecognition was finally forthcoming in March 1932, after the Administration had obtained senatorial and public support for the doctrine, which was first announced on January 7, 1932, in a note delivered to both China and Japan. Up to this time, the members of the League were reluctant to take any measures without United States backing. Stimson at first hoped that the note of January 7 would be followed by similar action on the part of other powers, notably Britain and France. In this he was disappointed. The British Government chose to rely on Japan's assurances regarding the integrity of China and preferred to work with the League. Without Britain the other powers would not act. Japan's cruel excesses in bombing Shanghai later in the same month, and the spirited resistance of the Chinese, however, changed public opinion in the United States and in many countries that were members of the League. Moral condemnation at least seemed possible. The problem then became one of coördinating United States policy and League policy. To accomplish this Stimson resorted to a stratagem for which the separation of the powers was well suited. He stated American policy in a letter dated February 23, 1932, to Senator Borah, chairman of the Foreign Relations Committee. The letter, prepared in collaboration with President Hoover and Senator Borah, stated that the United States refused to admit the legality of any situation impairing United States rights in China or the territorial and administrative integrity of China.<sup>6</sup> The state-

ment was intended for public consumption and for the benefit of "five unnamed addressees," the five great powers including Japan.<sup>7</sup>

The resolution of the League Assembly of March 11, 1932, followed and adopted without dissent the doctrine of nonrecognition. Unfortunately, this moral condemnation was insufficient to restrain Japan. It was given the maximum chance of success, however, by virtue of the fact that it had the collective support of the League and the United States. Nonrecognition and collective action, incidentally, have remained basic principles of American foreign policy, but until the Communist attack on South Korea in June 1950 they were largely paper policies unsupported by action or military power.

Congress was particularly influential in freeing the Philippines. Although every President since McKinley had insisted that independence for the islands was the ultimate goal of the United States, final steps were not taken until the depression. Then many interests, labor, sugar producers and others, protested to Congress against the competition of duty-free products from the Philippines. There were counterpressures, to be sure, but the agriculture-labor lobby won out. One bill was passed and then repassed over President Hoover's veto only to be rejected by the Filipinos, who feared its economic aspects. Two years later the plan was revived and altered as the Tydings-McDuffie Act, which was approved by President Roosevelt in March 1934, and accepted by the Philippine legislature in May 1934. Complete independence was to come at the end of a ten-year intermediate period. After thirty-six years the colonial adventure was coming to a close. Investment and commercial opportunity had proved disappointing. Many naval experts felt that the islands could not be defended in the event of a war with Japan.<sup>8</sup> For our purposes, the most important aspect of the problem is that domestic pressures operating on Capitol Hill had much to do with the steps taken in 1934.

### *Isolationism*

Congressional influence in foreign policy was pronounced when militant isolationism was in full swing. A number of books and articles carried sensational stories of the arms traffic. Strong public

sentiment demanded that the United States keep out of war at any cost. In 1934, the Munitions Investigation Committee was appointed under the chairmanship of Senator Gerald P. Nye of North Dakota. Its conclusions supported the views of many that bankers and munitions makers rather than the national interest had led the United States to war in 1917. This report, and the proposed "Ludlow Resolution for a National Referendum on a Declaration of War," reinforced isolationist convictions and did much to shape foreign policy prior to World War II.<sup>9</sup> The Johnson Act of 1934, providing that no persons under American jurisdiction could make a loan to any government that had defaulted on its debt to the United States, was a further example of Congressional initiative in the control of foreign relations without executive approval.

It should be said that the anarchic state of European politics in the second decade after "the war to end war" did much to nourish isolationism in the United States. Americans had gone to war in 1917 in an idealistic frame of mind. President Wilson announced to the world that the United States was fighting to make the world "safe for democracy" and to abolish "secret diplomacy." Other important reasons were either missed or thought too mundane to kindle sufficient enthusiasm for Americans to enter a grisly struggle of trench warfare and artillery barrages. It was rarely stated by political leaders that national security required intervention to save France and Britain and particularly the British fleet from final defeat. It was rarely stated that a continuing balance of power in Europe served the interests of the United States. In fact, the balance of power was specifically rejected. It was to be replaced by a new association of states organized to support a common peace. Even Cordell Hull in the thirties placed little stock in the balance of power.

Despite recent criticism of "Wilsonian idealism," there is much to be said in its favor. While the politics of the balance of power can never be disregarded, a new organization of power, a new "community of power," is obviously necessary for the establishment of any system of world order. The tremendous enthusiasm evoked every-

where by Wilson's statements of high purpose suggests that there are expressions of idealism common to nearly all men. What emerges from the experience of World War I and its aftermath is less a misplaced idealism on the part of Woodrow Wilson than the deficiencies of American democracy in meeting the challenges of the postwar world.

When idealist hopes were dashed, for example, Congress was more than responsive to the complaints of the disillusioned. It was difficult to explain to the voter or his elected representative the complexities that obstructed world order. For one thing, these complexities were alien to American experience. For another, executive efforts to elicit support on the Hill for a more positive role in world affairs were often regarded with suspicion. The Department of State was acutely conscious of hostile public opinion. For a time it even disregarded communications from the League. Our foreign office, apparently, could not be associated with the wiles and immorality of foreigners.

It is hard for any democracy to fight for limited political objectives. This was amply proved in both World Wars and later in the Korean struggle. Mr. George F. Kennan has told us that democracies are slow to anger. But when they fight, "powerful currents of war psychology" demand that the enemy be totally defeated.<sup>10</sup> Under these circumstances war ceases to be an instrument of national policy and becomes an end in itself. It can be argued that this tendency of democracies is at least exaggerated by the separation of powers. To carry Congress as well as the American people, Presidents have oversold the case for intervention in war or coöperation in peace. The result is an embarrassing discrepancy between expectation and reality. This point emerged from American disillusionment at the tribulations of peace-making in 1919. It emerged again after World War II when it was too often assumed that the United Nations had ushered in the millennium and obviated the need for a high level of armaments.

Disillusionment after World War I resulted in a widespread conviction that America must remain aloof from the world's quarrels.

Since the United States would not be embroiled in future wars, only a navy was needed as a first line of defense. This conviction persisted even when the war clouds gathered in 1935. The result was neutrality by legislation.

In the early days of President Franklin Roosevelt's administration a subcommittee of the Committee on Foreign Relations worked for weeks with representatives of the State Department on the drafts of the Committee's report on the Neutrality Act of 1935. Although Secretary of State Hull did not want neutrality legislation in the first place, he yielded to the views of the Committee that the shipment of arms to all belligerents should be embargoed "upon the outbreak of war between two or more foreign states." Congress and the State Department rarely agreed in drafting this legislation. The State Department sought an act that would enable it to discriminate against an aggressor nation, but Congress did not see fit to leave the executive a free hand in this respect. This meant that the United States forbade the sale of arms to both belligerents in the Ethiopian affair, although the League had found Italy the aggressor. This legislation stood in marked contrast to United States policy in World War I, when full neutral rights and freedom of the seas had been insisted upon.

In 1936, Congress widened the original measure to prohibit loans to belligerents but refused to incorporate many features desired by the President and the State Department. It did, however, change the wording of the old Act so that it was left to the President to determine whether or not there was a state of war. Because the Act of 1935 had not covered the problem of civil strife, Congress in 1937 passed a joint resolution forbidding the export of munitions to either side in the Spanish Civil War. Both the President and the Secretary of State were heartily in favor of this step, which was rushed through both the Senate and the House and received only one dissenting vote.<sup>11</sup>

A new law to provide "permanent neutrality" was passed in May 1937. It was not to expire on any set date. The President was given greater discretion in administering the Act. Restrictions on



munitions and loans were retained and it was made unlawful for citizens to travel on belligerent ships. A "cash-and-carry" plan was included whereby goods could not be carried to belligerents in American ships. Ownership of such goods had to pass into foreign hands before they left the United States. Hull adopted a passive attitude toward this legislation since the State Department sought more permissive legislation regarding executive authority than Congress was willing to grant.

By 1939 it seemed clear that war was coming. The President and Secretary Hull sought to change the Neutrality Act so that the European democracies, if at war, might have access to arms and ammunition with which to resist aggression. The legislation on the books was held to be an inducement to Hitler, since the industrial potential of the United States would not be fully at the disposal of the democracies. Specifically they sought a new act that would eliminate the arms embargo.<sup>12</sup> They were at first unsuccessful. On September 5, 1939, therefore, after war had broken out, the President issued two neutrality proclamations. One related to the customary rules of international law. The other applied the arms embargo of the Neutrality Act.<sup>13</sup>

Finally in November 1939 a revised act became law. The arms embargo was lifted so that Britain and France could purchase war goods on a "cash-and-carry" basis. Many other features of the 1937 legislation remained. But, while the President still had the right to find that a state of war existed between foreign powers, Congress tied the President's hands by providing in a joint resolution that it had the same right.<sup>14</sup> The Constitution is not specific on this point.

During this period there were both jealousy and distrust between the legislative and the executive branches. Senator Borah, ranking minority member of the Foreign Relations Committee, for example, made clear his opinion of the State Department during the White House conference of July 18, 1939 to consider proposed revisions of the Neutrality Act. Mr. Hull tells us that the Senator insisted he had access to information from abroad that satisfied him there would be no war in Europe in the near future. "He implied that it was

more reliable information than that received at the State Department.”<sup>15</sup>

Government under the separation of powers can by no means be entirely blamed for the shortcomings of American foreign policy. Isolationism was a primary factor that led both to the neutrality legislation and to a shockingly low level of armaments. But an exaggerated application of checks and balances intensified the problem.

In struggling with the Japanese expansion in Asia, Secretary of State Hull could only hurl moral thunderbolts. The United States had failed to maintain the strength necessary to support the principles of her policy. The Japanese felt in 1937, when Britain and France were vitally concerned with Hitler in Europe, that the United States had neglected its armed forces beyond the point of being able to fight a war in the Western Pacific.<sup>16</sup> It has been argued that “strategic weakness of our policy toward China . . . contributed to international instability.”<sup>17</sup>

Generally speaking, the interwar period was characterized by the wide use of executive agreements to effect international understandings on matters that seem quite as important as those dignified by the use of the treaty-making process. Approval by two-thirds of the Senate was not required to terminate the first World War, to join the International Labor Organization, to acquire Atlantic naval bases in British territory in return for over-age destroyers, to accept the Atlantic Charter, nor to enter into the Lend-Lease Agreements. In the last case, however, funds had to be provided by Congress as a whole before the United States could become the “arsenal of democracy.”

### *Reciprocal Trade Agreements*

A brief study of the events leading up to the passage of the Reciprocal Trade Act of 1934 emphasizes the importance of Congress in the economic aspects of foreign relations and the possibility of using means other than the treaty-making process to make important international agreements. The Act itself illustrates some of the

principal features of United States foreign policy today. The trade agreements that the President has been authorized to enter into are coöperative rather than negative in character. The trade policy envisaged by the Act is a positive one requiring executive implementation of a broad project prescribed by law. The program in many respects gave advanced notice of the swing of United States policy away from economic isolation to economic coöperation through the United Nations and its affiliated agencies. The President is given authority to enter into negotiations with other governments and to offer concessions in the form of limited tariff-rate reductions in exchange for similar concessions. The agreements may then be concluded without further reference to Congress. By 1944, twenty-seven such agreements had been concluded under the leadership of Secretary Hull.

In 1948, however, a smoldering revolt broke out in Congress, led by the farm bloc. As a result the trade-agreements program was extended for only one year instead of three years as had been requested by the executive. The one-year renewal, moreover, came only after the chief executive's authority was curbed by empowering the Tariff Commission to censor the President's exercise of authority previously delegated to him by Congress. The Commission was to investigate "peril points" in agreements under negotiation and to report its findings to the President. If the latter entered into agreements providing for lower rates of duty than those recommended in the Commission's findings, he was required to make a full report to Congress. This provision, however, was removed by Congress in the Trade Agreement Act of 1949, which extended the program for two years.

The 1951 Act again provided for a two-year extension although the House bill had sought to provide for a three-year period. Other provisions required the inclusion of escape clauses in future agreements and specified the procedure of their application by request of the President, Congress, the Tariff Commission, or "any interested party." Other provisions sought to prevent the import of furs from Communist China and the Soviet Union. Congress, in short,

retained a close check both on trade policy and on the manner of its administration.

The 1948 Act pointed up the difficulties of formulating policy when one party controls the executive branch and the other the legislative branch. It also emphasized the role of the independent regulatory commissions as a discordant element in the relations between the two branches. Congress generally tends to favor them, while the White House, unable to control them, feels that they infringe on the functions of the chief executive. The Commission, moreover, has tended to serve two masters. It has conducted research and analysis for Congressional committees, and it has participated in the work of important interdepartmental committees such as the Trade Agreements Committee in the executive branch.<sup>18</sup>

Congress in 1948 did not make a frontal attack on policy; it nibbled away at it by increasing the role of a regulatory commission over which the executive had little control. Another aspect of the problem is that the regulatory commissions are established by Congress with domestic matters primarily in view and are encouraged to remain independent of the President.

The factors which helped in 1934 to secure enactment of an economic policy so far removed from the preceding high-tariff era are important to note. In the first place, the diverse economic interests in the United States made trade agreements under the two-thirds rule a difficult undertaking, so that the executive-agreements procedure seemed essential.

Second, the provisions of the Act, which have required renewal every few years, served as a warning to the State Department that it must establish good working relations with Congress. The State Department originally wanted the Act to specify no time limit and, when the House insisted on a three-year limit, Department officials were reported ready to drop the whole program. Congressman McCormack, however, is reputed to have advised the State Department negotiators to compromise, and to elicit the continuing interest and support of Congress by a vigorous information program. Until 1948 the Act was renewed successfully every three years, and each

renewal was preceded by strong representations by the Administration, including the Vice-President, the Secretary, and the Under Secretary of State. Since 1948, however, the executive has found it increasingly difficult to win legislative support for this program.

Third, the methods of effecting liaison with Congress prior to the passage of the Act of 1934 were informal and *ad hoc* with Secretary Hull, a former Congressman and Senator, playing a key role at committee hearings and in cloakroom conferences. For the State Department the ball was carried principally by Mr. Sayre, Assistant Secretary for Economic Affairs, and Mr. Harry Hawkins, Chief of the Division of Trade Agreements. The principal pro-Administration Congressional figures were Chairman Doughton of the House Ways and Means Committee, Congressman Rankin, and Congressman Cooper from Tennessee, an intimate friend of Secretary Hull. In addition, however, lower-level officers of the State Department performed essential tasks, and one officer was assigned to spend most of his time on the Hill, thereby gaining the confidence of many Congressmen and bringing information to and from the Department.

Fourth, the success of this State Department-Hill liaison may be attributed in large measure to party teamwork, in spite of the fact that Secretary Hull sought to keep foreign affairs from being a partisan battle ground: "This was particularly true of the trade agreements program, where I sought the support of both parties, and where both assistance and opposition to the program frequently departed from party lines."<sup>19</sup> Majority members of Congress and State Department officials developed a close-knit strategy. Carefully prepared arguments were furnished to the members of the Committee. The Committee, in turn, made no amendments to the proposed legislation without full discussion with the State Department. Successful party teamwork between the legislative and the executive branches was made possible by the fact that a strong Democratic President was supported by an overwhelming Democratic majority in Congress.

Fifth, in conjunction with the advice of Congressional leaders,



the State Department devised methods of dealing with pressure groups such as the farm interests. The effect of certain sections of the Act on the political lives of various Congressmen was discussed. Consultation showed that it was unnecessary for certain hard-pressed Congressmen to jeopardize their election chances by supporting the Administration's program since sufficient votes were to be had without their support. Meanwhile effective popular support had been built up by the Administration with the keynote sounded by Roosevelt's presidential campaign speeches.

A final conclusion in regard to the trade-agreements program is that its implementation over the years has been helped by careful coördination of policy within the executive branch. Congressmen, as a rule, have not received two different answers to the same questions. A united front was presented owing to the work of an interdepartmental committee, the Executive Committee on Commercial Policy, with Under Secretary of State William Phillips as its temporary chairman. Its first regular chairman was Francis B. Sayre, who was largely responsible for the development of one of the most "effective interdepartmental committees to be found in the federal system."<sup>20</sup> It proposed a draft for the Trade Agreements Act and the establishment of the Trade Agreements Committee. The latter committee was established with the idea of continuing interdepartmental coördination and stems from the provision of the Act that the President shall seek information and advice from the Tariff Commission, the Departments of State, Agriculture, and Commerce, and such other sources as he may deem appropriate. The Committee worked out the details of all trade agreements. No changes were made without reference to it or before agreement had been reached among all the departments and agencies concerned. Credit for the smooth operations of the committee is due in large measure to the skill of its chairman, Harry C. Hawkins. The trade-agreements program, in short, provided experience in legislative-executive collaboration that proved valuable when the United States undertook new responsibilities in world affairs.

## CHAPTER NINE

# *UNRRA and the United Nations Charter*

*During World War II* it became evident that the House was on the threshold of a new role in foreign affairs. Economic and military measures to achieve victory and safeguard the peace required the constant participation of the House as well as the Senate. Improved legislative-executive collaboration was also necessary to obtain Congressional support for the Administration's foreign-policy programs.

### *UNRRA*

The UNRRA Agreement was formulated at a time when the Department of State was giving serious consideration to the establishment of a postwar international organization by a series of executive agreements rather than by a single treaty, which might run afoul of a sufficient minority of the Senate to obstruct its passage. The Agreement was the result of a joint effort by both the executive and the legislative, including the two houses. The result was so satisfactory that some observers hoped that similar methods might supersede the treaty procedure more frequently in the future.

The State Department negotiated the draft text of the United Nations Relief and Rehabilitation Administration Agreement with Great Britain, the U.S.S.R., and China in the spring of 1943. During the negotiations the Department of State held discussions with the Senate Foreign Relations Committee and the House Committee on Foreign Affairs, and in June, President Roosevelt summoned the majority and minority leaders of the Senate and House (Barkley,

McCormack, McNary, and Martin) to a White House Conference. These leaders consented to the proposed procedure whereby the United States would participate in the establishment of UNRRA by means of an executive agreement. Legislative approval was to follow the negotiations with other members of the United Nations.

Senate prerogative, however, had not been fully propitiated. On being advised by Secretary Hull that the United States would join in the establishment of UNRRA by means of an executive agreement, Senator Vandenberg introduced a resolution<sup>1</sup> calling upon the Foreign Relations Committee "to investigate the draft agreement" and "to determine whether the draft agreement was of the nature of a treaty, and should be submitted to the Senate for ratification."<sup>2</sup> The Democratic Chairman of the Committee on Foreign Relations felt constrained to appoint a subcommittee of five to discuss with Secretary Hull the problems raised by Senator Vandenberg's resolution. The members of the subcommittee included three Democrats, Connally, Thomas, and Green; one Republican, Vandenberg; and one Progressive, La Follette. The views of the State Department were presented before the subcommittee by Secretary Hull accompanied by the negotiators of the pact, Assistant Secretary of State Dean Acheson and the Deputy Director of the Office of Foreign Relief and Rehabilitation Operations, Mr. Francis B. Sayre. In addition, the draft was discussed informally with members of both the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

Secretary Hull also found that the Administration's program was under heavy fire from leading members of his own party, largely on the ground that the prerogatives of the Senate had been ignored.<sup>3</sup> As a result of long discussions, Secretary Hull accepted "various changes" in the final form of the agreement so that the draft, as submitted to the United Nations by the United States, was a joint product of the legislative and executive branches of the government.

Meanwhile, on July 8, 1943, Senator Vandenberg reported to the Senate on the subcommittee's discussion with the State Department. He spoke of the need for Congressional participation—not just that

of the Senate—and the need for “common ground” between the legislative and executive branches.<sup>4</sup> As a result of the subcommittee’s work he was able to show that neither the Senate nor the Constitution was being by-passed.

An important agreement with regard to procedure was devised by Senator Green and Mr. Sayre whereby, in return for the submission of the draft text to the Committee on Foreign Relations, the Senators tacitly pledged that they would support a joint resolution instead of requiring a two-thirds vote authorizing the United States to participate in the work of UNRRA.<sup>5</sup> As a result, after negotiations were reopened with the Big Four and agreement reached with them as well as with the other states in the United Nations, Congress fulfilled its part of the bargain.<sup>6</sup> Senator Vandenberg insisted that the agreement itself be incorporated in the joint resolution to indicate that Congress had passed on its merits. For this purpose, the House Committee on Foreign Affairs reported favorably Chairman Bloom’s resolution authorizing the appropriation of \$1,350,000,000 to the President for participation in UNRRA. This resolution passed the House in January and passed the Senate with minor reservations in February. In March, the compromises reached by the conference committee on the resolution were accepted by both houses.

Great care was taken in the preparation of this joint resolution, including not only careful coördination within Congress but also careful clearance with the executive departments concerned. The executive branch was thus united in its presentation to Congress, and Senator Vandenberg referred enthusiastically to the intimate collaboration between the State Department and Congress.<sup>7</sup> Senators and Representatives were provided with information that persuaded them to take this major step, which was generally recognized as a prelude to the establishment of a permanent postwar international organization.

There are a number of important points to be noted in regard to the UNRRA agreement negotiations. First, the initiative for joint consultations with the State Department appears to have come from the Senate. Second, the prerogatives of the Senate seem to have loomed

more importantly in the minds of certain Senators than party unity. It is interesting to note that Senator Vandenberg worked with Mr. Acheson in bringing about agreement between Senator Connally and Secretary Hull when the Senator from Texas expressed concern lest the authority of the Senate be disregarded. Third, an atmosphere of strain and even hostility between the State Department and Congress was changed to one marked by unity of purpose and increased confidence by dint of patient negotiations conducted by the highest policy officers in the Department, assisted by thoroughly informed officials. An important element in these negotiations was the fact that the executive branch provided all the necessary facts well in advance in order to create a receptive Congressional mood. Fourth, both sides were ready, once effective channels of discussion were established, to compromise. The result was that Senators Connally and Vandenberg, both originally critical of the procedure involved in the draft agreement, became vigorous champions of the compromise procedures during the Senate debate that followed in February 1944. Both the two major parties and the two branches of government achieved a meeting of minds. Fifth, the House was consulted simultaneously with the Senate, which helped to insure that the necessary funds and enabling legislation would be forthcoming. Finally, if machinery or procedures had existed at the beginning of these discussions to provide a channel for automatic bipartisan executive-legislative consultation on this issue, Senator Vandenberg would probably not have had to resort to his resolution to "investigate" the UNRRA proposal.

### *The United Nations Charter*

One of the most vital foreign-policy issues affecting legislative-executive relations since the League of Nations was the formulation and adoption of the United Nations Charter. The outstanding coöperation that took place between the two branches on this question provides an almost model case study in interbranch collaboration and suggests that on fundamental foreign-policy issues divisions between parties as well as branches of the government can



be bridged. At the same time the United Nations experience demonstrated that occasional *ad hoc* consultations between the branches are not always sufficient. Thus, there was finally established a joint Advisory Committee on Postwar Foreign Policy in which executive and legislative representatives met on equal footing and at regular intervals. Furthermore, this experience points to the importance of dealing with such fundamental issues on a bipartisan basis.

The first stage of executive-legislative coöperation in connection with the United Nations Charter took the form of informal inter-branch conversations. The executive side was represented by such officers as Secretary of State Cordell Hull and Assistant Secretary of State Breckinridge Long, following the latter's appointment in October 1940 to deal primarily with Congressional relations. On the legislative side there were the chairman of the Senate Foreign Relations Committee, Tom Connally; a Republican member of the same committee, Warren Austin; the chairman of the House Foreign Affairs Committee, Sol Bloom; and others. It soon became obvious, however, that more regular and continuous give-and-take had to be organized between the two branches before any real progress could be made.

That organization finally came when, with the authorization of President Roosevelt, Secretary Hull on May 27, 1942, added Democrat Tom Connally and Republican Warren Austin to the Advisory Committee on Postwar Foreign Policy. This Committee had been instituted three months earlier and was composed at first of fourteen State Department officials and private experts on foreign affairs. After Connally and Austin were included, Hull, at a later time, added to this group Senators Walter F. George (Democrat of Georgia), Elbert D. Thomas (Democrat of Utah), Wallace H. White (Republican of Maine), and Representatives Sol Bloom (Democrat of New York), Charles A. Eaton (Republican of New Jersey), and Luther A. Johnson (Democrat of Texas). Still later, Senators Scott W. Lucas and Claude Pepper, and Representatives Schuyler O. Bland, J. Hardin Peterson, Richard J. Welch, Alfred Bulwinkle, and Charles A. Wolverton were invited to serve as par-

ticipants in the work of special committees set up under the Advisory Committee.<sup>8</sup>

In support of this kind of joint legislative-executive machinery to deal with the peace settlement, Senator Wiley of the Senate Foreign Relations Committee went so far as to introduce a resolution on September 17, 1942, calling upon the President to join with the Senate in creating a Foreign Relations Advisory Council composed of the Secretary of State, the Under Secretary of State, and such experts as the Secretary might designate; the chairman and the ranking minority member of the House Foreign Affairs Committee, the chairman and ranking minority member of the Senate Committee on Foreign Relations; and such other Senators as the President might designate. When Secretary Hull refused to organize a Council of this kind, although his Advisory Committee closely resembled it in many respects, Senator Wiley replied:

It is elementary . . . that the grave difficulty of machinery for collaboration between the State Department and Congress in the inception steps of the [U.N.] treaty cannot be casually dismissed by a faith in the efficacy of the Congressional friends of a Secretary of State. Such friendships, Mr. Secretary, are not an adequate substitute for carefully planned machinery for collaboration between the executive branch and Congress.<sup>9</sup>

The next important step in executive-legislative relations concerning the United Nations Charter was the passage of the Fulbright and Connally Resolutions which put both Houses on record as favoring United States participation in an international peace organization. There were constant negotiations between the two branches on the framing of these resolutions, including a request from Senator Lucas of Illinois, as Acting President *pro tem* of the Senate, to Secretary Hull to have the Department of State prepare a draft resolution for Senate consideration. The Fulbright Resolution, in which the House favored "the creation of appropriate international machinery . . . to maintain a just and lasting peace . . . and . . . participation of the United States therein," was passed on September 21, 1943. Then, less than two months later, on November 4, the

Senate passed the Connally Resolution which urged that the United States "join . . . in the establishment and maintenance of an international authority . . . to prevent aggression and to preserve the peace of the world."

The third important development in these negotiations was the establishment of a firm agreement by both parties that the legislative-executive discussions in connection with the United Nations should be on a strictly nonpartisan basis. After Hull showed his good faith by taking Republicans as well as Democrats into his Advisory Committee, certain Republican leaders, including Austin and Vandenberg, met at Mackinac Island, Michigan, and issued a statement in the fall of 1943, urging United States participation in an international peace organization. This tide of growing Republican support for the United Nations, clearly apparent in strong Republican approval of the Fulbright and Connally Resolutions, was substantially heightened when, in the summer of 1944, the Republican as well as the Democratic Parties adopted planks favoring an international organization. No small part was played in this development by Secretary Hull's and Assistant Secretary Breckinridge Long's negotiations with various Senators and Representatives of both parties.<sup>10</sup> It was only after some rather strong criticism had been made in August 1944 by Republican candidate Thomas E. Dewey, however, that Hull and Dewey's representative, John Foster Dulles, finally worked out an agreement that discussions on the United Nations during the 1944 presidential campaign would be strictly nonpartisan.<sup>11</sup>

The final stage of legislative-executive relations regarding the United Nations Charter was the establishment of direct Congressional participation in the formulation and approval of the Charter itself. This entailed the regular exchange of views between the two branches. In addition to those Congressmen on the Advisory Committee, Secretary Hull asked the Senate Committee on Foreign Relations in March 1944 to appoint a subgroup of four Democrats and four Republicans to confer with him concerning the Charter. After its first meeting on April 25, 1944, this Committee of Eight met regularly thereafter and discussed at length all major aspects of the

draft Charter proposed by the State Department, including the questions of whether or not to set up the United Nations before the peace treaties had been agreed to, the effect of the veto, and the respective jurisdictions of the President and Congress with regard to enforcement action under the Charter. Then, on June 2, 1944, Hull also met with leading members of the House of Representatives of both parties and covered with them approximately the same ground as that discussed with the Committee of Eight.

Armed with this Congressional support, Hull felt ready for the Dumbarton Oaks Conference. Although he did not urge any Congressional leaders to attend that Conference, he told Senators Vandenberg and Connally and Speaker Rayburn that he would keep them informed of the progress of the Conference and would let them know if any radical changes were made in the plan approved by the Committee of Eight.<sup>12</sup>

Then between the Dumbarton Oaks Conference and the San Francisco Conference there were further State Department meetings with the Senate Committee of Eight and also with leading members of the House. Another important step was taken when Senators Connally and Vandenberg and Representatives Bloom and Eaton were appointed as delegates to the San Francisco Conference. The high level of nonpartisan executive-legislative coöperation then continued at the San Francisco Conference and afterward, until the Charter was finally approved by the Senate on August 8, 1945, by a vote of 89 to 2. The importance of including the two Senators on the delegation cannot be overstressed. When, for example, Vandenberg and Connally returned to the Senate after the Conference, they steered the Charter through committee hearings and made vigorous speeches on the floor of the Senate to follow up committee action. They were congratulated on every hand for their constructive contribution to the formulation of the Charter.

Among the many lessons that seem to be indicated by this experience, the following deserve special attention:

(1) In establishing close executive-legislative relations with regard to the United Nations, it soon became evident that, in Senator



Wiley's words, "friendships . . . are not an adequate substitute for carefully planned machinery." There had to be some organization to implement frank and regular executive-legislative consultation.

(2) Especially useful in this respect was the Advisory Committee on Postwar Foreign Policy which was finally composed of not only Cabinet officers and leading Senators and Representatives but also executive-branch experts below the cabinet level, various leading private citizens and representatives of government agencies other than the regular departments. The size of this committee—finally 45 persons—obviously made it broadly representative but also rather unwieldy compared to the original membership of 14.

(3) It was also necessary to recognize the new importance of the House in the field of foreign relations. Representatives as well as Senators were included in both the Advisory Committee and the delegation to the United Nations Conference.

(4) Since even the large Advisory Committee could not include very many Congressmen, it was necessary to establish additional working committees, such as the Senate Committee of Eight and *ad hoc* groups of the House, to meet with the Secretary of State and others. This whole problem of executive-legislative liaison might have been made easier if there had been closer coördination on the legislative side to deal with United Nations matters.

(5) It was helpful in all of these negotiations to have an Assistant Secretary of State, Breckinridge Long, who was able to devote most of his time to working with Congress and who was high enough in rank and close enough to policy that he could relieve the Secretary of a great deal of the burden of keeping the Congress in a pleasant frame of mind.

(6) From the outset many leaders in both the executive and legislative branches were convinced that on a fundamental issue of United States foreign policy such as the United Nations the discussions had to be conducted on a strictly nonpartisan basis. In spite of the fears of President Roosevelt that such a nonpartisan agreement would not be kept by the Republican Party, it was adhered to with remarkably good faith.



(7) The appointment of both Senate and House leaders to the United States delegation to the San Francisco Conference was also of immeasurable importance not only because of the contributions made by those men to the formulation of the Charter but also because of their active and informed support of the Charter when it arrived in the Senate for the crucial test.

(8) In spite of the concern on the part of many persons in the executive branch that there would be embarrassing leaks of secret information if that information were given to Congressmen, this was not the case during the meetings of the Advisory Committee and of other consultative groups, involving a small group of leading Congressmen. Legislative-executive differences concerning the Charter were settled in private rather than in public. There was, therefore, little opportunity or necessity for Congressmen to take extreme stands in public in order to cater to popular prejudices. In fact, there was the closest coordination of Congressional and public relations, as, for example, when Secretary Hull carefully consulted the Committee of Eight before he released a report of their discussions to the press.<sup>13</sup>

(9) Furthermore, in the off-the-record legislative-executive discussions that took place there was no attempt to force formal decisions or to commit individual Congressmen. Hull stressed the fact that his meetings with the Committee of Eight were to be "entirely informal . . . and each one present could feel entirely free and easy and no one would be requested to express an opinion, much less assume obligations, unless he wished."<sup>14</sup> The value of these discussions lay not in attempting to obtain binding commitments but in the frank exchange of views and the general "sense of the meeting" that undoubtedly influenced the final policy of our government with respect to the United Nations.

## CHAPTER TEN

# *The Marshall Plan*

*The United States foreign-aid program* since the war has emphasized more than ever the need for close working relations between the legislative and the executive branches, the increased importance of the House in world affairs, and the necessity for more central coördination in the formulation of foreign policy.

In the early part of 1944 the House appointed and sent abroad a Special Committee on Postwar Economic Policy and Planning (Colmer Committee) to report to Congress upon

all matters relating to postwar economic policy and problems . . . to the end that Congress may be . . . in a position to formulate solutions with respect to them which will result in the greatest contribution by Congress to the achievement of a stable economy and a just peace.<sup>1</sup>

In the years immediately following World War II more and more Congressmen were directly exposed in this way to the chaotic conditions in Europe. In addition to the Colmer Committee, various subcommittees of the Foreign Affairs Committee toured Europe. Subcommittees of the Foreign Relations and the Foreign Affairs Committees joined forces to form the Smith-Mundt Congressional group which made studies of the Voice of America program. The Colmer Committee proposed among other things the creation of a presidential staff to study the relation of foreign economic policy to domestic policy, the appointment of an Under Secretary of State for Economic Affairs, and the calling of an international conference to consider the problem of a general reduction in the barriers to international trade. It also concluded that a program of productive loans was better for world trade than a program of indefinite relief.

But most important for the Marshall Plan were the European travels and conclusions of the House Select Committee on Foreign Aid (Herter Committee), which was established in July 1947. By that date it was generally realized in government circles that economic reconstruction was necessary for peace and democracy in Europe and that the political and ideological emphasis of the "Truman Doctrine" of March 1947 was insufficient to resist communism. The problem was how to inform the American people and prepare them for steps much more drastic than the Greek-Turkish Aid Program.

The Economic Coöperation Act of 1948, approved as law on April 3, was the result of tremendous undertakings on the part of both the legislative and the executive branches, including widespread public discussions and support. Its legislative history gives some idea of the task of planning and coördination that is required to conceive and implement foreign economic policy. The work of a great web of executive agencies and committees had to be drawn together and then spliced with the planning of several Congressional committees. In comparison, the earlier reciprocal-trade program was simplicity itself. In spite of the magnitude of the task, government under the separation of powers stood up remarkably well.

The Marshall Plan was foreshadowed on the executive side by two addresses of leading officials, one by Under Secretary of State Dean Acheson, on May 8, 1947, in Cleveland, Mississippi, and the other by Secretary of State George C. Marshall, on June 5, 1947, at Harvard University. The former recommended an integrated program of reconstruction aid rather than piecemeal relief to the European economies.<sup>2</sup> This was welcome news to a Congress that was allergic to seemingly endless piecemeal aid programs. These speeches were the first official keynoting of the Administration's program<sup>3</sup> and reflected the views of the State Department's Policy Planning Staff headed by George Kennan who, it was reported, helped to draft much of Secretary Marshall's speech. There were also reports in the press that the Administration was preparing a new reconstruction policy which would consider the total needs of Europe, and that the

European nations were to be called upon "to suggest a more co-ordinated continental economy as a preliminary to the United States meeting them with a large-scale program of 'continental' aid."<sup>4</sup>

By the time of Marshall's speech at Harvard, therefore, Congress, the State Department, and many private individuals such as Bernard Baruch and Joseph P. Kennedy recognized the need for a new integrated approach to the problem of postwar economic reconstruction. Marshall struck the keynote by declaring:

It is already evident that, before the United States Government can proceed much further in its efforts to alleviate the situation and help start the European world on its way to recovery, there must be some agreement among the countries of Europe as to the requirements of the situation and the part those countries themselves will take in order to give proper effect to whatever action might be undertaken by this Government. It would be neither fitting nor efficacious for this Government to undertake to draw up unilaterally a program designed to place Europe on its feet economically. This initiative, I think, must come from Europe. The role of this country should consist of friendly aid in the drafting of a European program and of later support of such a program so far as it may be practical for us to do so. The program should be a joint one, agreed to by a number, if not all, European nations.<sup>5</sup>

By July 11, 1947, sixteen Western European nations, acting swiftly to accept the challenge, were meeting in Paris to prepare a survey, the Committee on European Economic Coöperation (C.E.E.C.) Report, setting forth their needs and their willingness to coöperate in a coöordinated recovery program. While Marshall had spoken primarily in economic terms, the political implications were becoming obvious. Europe, it appeared, could not resist absorption by the Soviet Union without a high degree of political and military as well as economic integration. Congress supported this view. Faced with legislative criticism directed at the sudden demands of the Greek-Turkish Aid Program, the Administration was careful to present Congress with a long-range economic program to meet the needs of Europe as a whole. A straw in the wind was the Fulbright Resolution of March 1947, putting Congress on record as favoring

the creation of a United States of Europe within the framework of the United Nations.

Meanwhile, government officials and members of Congress, the Herter Committee in particular, traveled abroad to study the needs of the sixteen participating nations of Western Europe. Three special executive committees,<sup>6</sup> appointed by the President, considered the impact of the contemplated assistance upon the resources and the domestic economy of the United States. Events abroad, however, during the summer of 1947, provided the real impetus for the European Recovery Program. Summer droughts followed winter cold to curtail European crops. The Greek situation was the latest and most serious evidence of Soviet expansion. The Cominform was organized to resist the "Marshall Plan," or "idea" as the Secretary preferred to have it called. The international monetary system was badly dislocated by heavy deficits of the participating nations. These factors all served to heighten political and economic instability and to underscore the need for a gigantic economic transfusion.

In spite of a post-UNRRA aid program,<sup>7</sup> a pure relief plan implemented on a bilateral rather than a multilateral basis, it became increasingly evident that aid to Europe could not wait upon the formulation and implementation of the "Marshall idea." Interim aid was needed, but the Administration appeared fearful of calling a special session in an election year with party control divided in the legislative and executive branches. The Republicans had carried out their promise of tax reduction, and the moment did not seem propitious to request interim-aid funds with a large-scale recovery program just over the horizon. The President and Secretary Marshall, however, conferred with Congressional leaders of both parties, emphasizing the Communist threat to Western Europe. As a consequence Representative Eaton and Senator Vandenberg agreed to call their respective foreign-policy committees together.

In the middle of the summer informal staff work between the legislative and executive branches gradually developed. Evening meetings between State Department officials and Congressmen, arranged by members of the Congressional staffs, did much to pro-



mote a meeting of minds on the urgency of the situation. Senator Vandenberg, however, insisted that the chief executive must take the initiative and the responsibility for a special session of Congress. "The information is all down there [in the White House and State Department]," he is reported to have said; "the President must make an authenticated disclosure of the Administration's plans." Congress in his view could not be expected to fulfill its role without access to the information in the executive branch. Meanwhile, State Department officials during September and October constantly kept the urgency of the situation before the President.

The final decision to call a special session came at a bipartisan White House conference of Congressional leaders with the President on October 23 "for a further discussion of emergency foreign aid." As a result, Congress was called into special session on November 17, 1947, and provided special funds for interim aid to France, Italy, and Austria until April 1, 1948, when the long-range program was expected to be in operation.

The executive branch, however, did not escape criticism during this period. Representative Herter declared that the Foreign Affairs Committee had received six different sets of figures from the middle of October up to the final figure given on November 10. Congress, particularly the House, made an important contribution to the whole foreign-aid program by putting pressure on the executive branch to set its house in order. It insisted that the crisis could not be handled without careful coördination among such departments as Commerce, State, and Treasury, and agencies such as the Bureau of the Budget and the National Advisory Council.

The legislative branch, in its turn, caused certain difficulties owing to the duplication involved in a rash of committee hearings by the foreign-policy and appropriations committees of the House and Senate. Eight different Congressional bodies made changes in the contents of the Interim-Aid Bill—the Foreign Relations and the Foreign Affairs Committees, the two Houses after debate on the proposed bills, the Conference Committee which resolved the differences between the House and Senate bills, the two Appropriations

Committees, and the Conference Committee dealing with the appropriation. This plethora of meetings and hearings placed a heavy work load on the officials of the State Department, some of whom became seriously fatigued. Clearly, proper liaison with Congress could not be maintained by the part-time efforts of a few busy top officials such as the Counselor and the chairmen of the Policy Committees. Ambassador Douglas was therefore assigned to carry a major part of the liaison load. The Department had no full-time Assistant Secretary for Congressional Relations in this difficult period.

Significant steps during the foreign-aid debate were the assertion by the Appropriations Committees, particularly the House Committee, of the right to make a survey of Europe's needs independently of the Foreign Affairs Committee, the inclusion of China in the program on the initiative of Congress,<sup>8</sup> and the rejection of a bid to include Spain. The prerogatives of the House Appropriations Committee under the leadership of Congressman Taber were exercised when it became necessary to implement by appropriation the legislation that already had been made the law of the land by act of Congress. In spite of the investigations of the foreign-policy committees, independent estimates on the substance of the foreign aid bill were made, and serious differences had to be ironed out in joint-committee session after Senator Vandenberg had appealed successfully to the Senate Appropriations Committee to implement the law by restoring the cuts made by the House. The action of Mr. Taber underscores the degree to which foreign policy can be influenced in the appropriation process.

The House Select Committee stressed organizational problems and stated that "the success of any program for foreign recovery and reconstruction depends in great measure upon the effective coördination of the work of the various American and international agencies which are dealing with the problem."<sup>9</sup> With this in mind, Mr. Herter introduced a bill recommending a coördinating agency within the executive branch to be known as the Foreign Aid Council.<sup>10</sup> The Committee went on to note that the successful administration of aid would involve the continuous problem of manage-

ment and coördination among the agencies of the executive and certain international organs such as the United Nations Economic and Social Council and its several commissions, and that differences would inevitably arise.

The problem is to make sure the mechanisms exist to resolve such differences and to prevent uncoördinated and perhaps contradictory action by different agencies . . . The practical solution must be found in the creation of a single focal agency to center the programing powers, and controls needed for the efficient operation of foreign-aid programs, and in a substantial realinement and clarification of the existing organization and working relationships.<sup>11</sup>

The Committee felt that "the practical requirements of present-day international relations render it undesirable that all negotiations and contacts between nations or between national departments and international agencies be channeled solely through one office or department such as the State Department."<sup>12</sup> In this view the State Department should play the principal role, under the President, in developing a unified foreign policy and should be kept informed of the activities of operating agencies. The report also endorsed the recommendation of the Colmer Committee for a presidential staff (Cabinet secretariat), with functions and organization comparable to the Office of War Mobilization and Reconversion (OWMR). The staff was to review the relation of foreign economic policy to domestic policy and provide for a systematic formulation and review of programs in the field of economic foreign relations, since "programing provides the link between policy and operations and unifies the efforts of the various echelons and branches of government."<sup>13</sup>

Congress, it was evident, was opposed to the administration of the Marshall Plan by the State Department and was particularly concerned that the views of other departments and agencies should be considered in the formulation of economic policy. To perform the initial screening and to formulate the ECA legislation, an interdepartmental group, the Advisory Steering Committee, chaired by Under Secretary of State Lovett, was established. Reporting directly to this Committee was a Correlation Committee, chaired by Colonel

Bonesteel of the State Department and including representatives from the Treasury, Commerce, and Agriculture Departments. In addition to the National Advisory Council, the Executive Committee on Economic Foreign Policy contributed to the screening process by studying the relation of the aid program to the United Nations.

The main work of screening the CEEC proposals was based on intensive commodity and country studies in which the views of all interested government departments and agencies were expressed. The raw material of the screening process was furnished first of all by the CEEC reports themselves and then by the Krug, Nourse, and Harriman reports and the Treasury Department's tariff studies. On the legislative side there were the studies of the Herter Committee, and the conclusions of the two Appropriations Committees and the Foreign Relations Committee. This was truly a gigantic collaborative effort.

The Administration's program and the bill were drafted by State Department officials who, in consultation with Congressional committee staff members, reduced the CEEC total of \$22.4 billion to \$17 billion for a period of four and one-quarter years. Senator Vandenberg played a central role in effecting this reduction. The Foreign Relations Committee noted that probably "no legislative proposal coming before the Congress had ever been accompanied by such thoroughly prepared documentary materials"—including a report of the Brookings Institution which Senator Vandenberg had requested.

The administration of the program as provided in the Economic Coöperation Act of 1948 called for continued collaborative effort between the legislative and executive branches. A new and separate operating agency was established, the Economic Coöperation Administration (ECA), as an integral part of the executive branch on a plane with the ten cabinet departments, but care was taken not to infringe "on the essential authority of the Secretary of State in the conduct of foreign relations."<sup>14</sup> The major reason for the establishment of the ECA seems to have been the legislators' doubt that the State Department was equipped to operate such a large and compli-

cated program. The responsibilities of the ECA were vested in a single administrator, appointed by the President with the advice and consent of the Senate, who was to have a status in the executive branch comparable to that of the head of a department. Mr. Paul G. Hoffman of the Studebaker Corporation assumed this important task. The Administrator and the Secretary of State were each assigned functions under the terms of the bill and were to keep "each other fully and currently informed" on matters "within the scope of their respective duties which are pertinent to the duties of the other." Unresolved differences between them were to "be referred to the President for final decision." Coördination in the executive branch was clearly a major concern of the Act, although the Foreign Aid Council suggested in the Herter bill was not included.

In developing the financial aspects of the program, the Administrator was directed to consult the National Advisory Council on international monetary and financial problems. The facilities and services of any department or agency were to be utilized as the President directed, including the Export-Import Bank. The legislation provided for the establishment of a Public Advisory Board made up of "eminent citizens" of varied experience to advise the Administrator, to be bipartisan in character, appointed by the President and confirmed by the Senate.

The Act established a joint Congressional Committee on Foreign Economic Coöperation (the so-called "watchdog committee") with the following terms of reference:

It shall . . . make a continuous study of the programs of United States economic assistance to foreign countries, and . . . review the progress achieved in the execution and administration of such programs. Upon request, the committee shall aid the several standing committees of the Congress having legislative jurisdiction over any part of the programs of the United States economic assistance to foreign countries; and it shall make a report to the Senate and the House . . . concerning the results of its studies, together with such recommendations as it may deem desirable. The Administrator, at the request of the committee, shall consult with the committee from time to time with respect to his activities under this Act.<sup>15</sup>



The Foreign Relations Committee indicated the significant role it expected the joint committee to play, saying that it

felt strongly . . . that the joint committee will serve as a useful mechanism to bridge the gap between the executive and legislative branches and thus help bring about that teamwork within our own Government which is essential if the program is to succeed.<sup>16</sup>

In the establishment of this joint committee, the policy committees were favored over the appropriations committees since both the Senate Foreign Relations and House Foreign Affairs Committees had as representatives three members each (two from the majority party, one from the minority), while the Senate and House Appropriations Committees had only two members apiece (one majority and one minority). The intention of the Act, however, appears to have been modified somewhat by the decisions of the chairmen of both appropriations committees to appoint themselves to the joint committee while neither of the policy committee chairmen saw fit to do this. The fact that two powerful figures, Senator Bridges and Representative Taber, sat on the joint committee undoubtedly gave the appropriation point of view more weight than it might otherwise have had.

The hope of Senator Vandenberg and his committee that the "watchdog committee" could "bridge the gap" and bring about "teamwork" between the legislative and executive branches was not fulfilled, owing largely to the personal views of some of the committee members. Taber, Bridges, and McCarran were in little sympathy either with the foreign-aid programs of a Democratic Administration or with the policy enacted into law by a Republican Congress under Republican leadership. In their view the proper exercise of the "watchdog" function was apparently to hound the executive at every turn. Its staff members, numbering about twenty, under the guidance of a director styled officially as "Agent General," felt that their mission was to ensure economy rather than recovery. The gap was widened instead of bridged. Owing to the point of view of key members who enjoyed considerable prestige in Congress, it became a self-appointed guardian of public monies and not an

instrument of coöperation for implementing a positive program of foreign aid.

The situation did not improve with the Democratic victory of 1948. Senator McCarran, as the new chairman of the committee, had little regard for Administration views and found Republican colleagues in both the Senate and the House who agreed with him that ECA might be an appropriate dumping ground for some surplus American agricultural products. A draft committee report prepared in the spring of 1950 was definitely at variance with established policy on dumping and other matters. It was consequently blocked but emerged as a "staff study."

The committee, in short, did not play its intended role. Party discipline was unable to bring such senior figures as Bridges or McCarran into line. The committee was therefore by-passed as much as possible. Unlike the Joint Committee on Atomic Energy, it never became effective as a point of information and liaison with the executive branch. On many matters it appeared not to represent the majority views of Congress on foreign-aid programs. Seldom has the personal authority of individual Congressmen and Senators or the lack of coördination in the control of policy on the Hill been so convincingly demonstrated. In 1950, this discredited group was terminated when its funds were cut off.

Important conclusions to be drawn from the foreign aid experience are as follows. First, Congress, as the result of its own investigations and full and frank consultations with the executive on a bipartisan basis, provided much of the impulse that led to the ECA program. This is one of the respects in which the European Recovery Program differs sharply from the Point Four Program. In the latter case Republicans were not sympathetic in large measure because it was the President's program and they could get little credit for it. Since there was little if any consultation with Congressional figures prior to the Truman inaugural address and little improvement in this respect until late in 1949, the support of even the Democratic members of the legislative branch was scarcely hearty. Coördination between the branches on the formulation of a policy for

the economic development of "underdeveloped areas" was slow indeed. As a consequence, this policy, important in large areas of the world, has until recently been relatively neglected.

Congress, however, was particularly influential in shaping the administration of the Marshall Plan. The early views of the State Department in this respect were not accepted, and certain restrictions on East-West trade were imposed so that the Marshall Plan countries might not export to "iron-curtain" countries products which the United States was forbidden to export by the American Export License System.

Second, this experience demonstrated the importance of the role that the Appropriations Committees now play in the conduct of foreign relations. This is especially true of the House Appropriations Committee, since it is not overshadowed by the Foreign Affairs Committee to the extent that all Senate committees tend to rank below the Foreign Relations Committee. As a result of this development budgetary considerations have tended to influence policy decisions to a great extent. The increased importance of the Appropriations Committees has also added to the burden of the State Department by increasing the number of committee hearings for which careful preparation must be made.

Third, while the institution of "watchdog" committees suggests that there may be a growing awareness in Congress of the need for better coördination within the legislative branch, its mere establishment is no guarantee that the task will be accomplished. To the extent that various lines of authority within Congress are drawn together, these joint Congressional committees may in the future simplify the problem of executive liaison with Congress. If these joint committees merely become "fifth wheels," however, and if their membership is dominated by the enemies of a given policy, they may well complicate rather than simplify executive-legislative relations.

Fourth, the foreign-aid programs were formulated and implemented on a bipartisan basis so that the United States might present a united front to the world. It is significant to note that legislative-executive coöperation reached a high-water mark in the formula-

tion of the European Recovery Program, although a Republican Congress was facing a Democratic Administration. One might have supposed that the two branches would have been at each other's throats. Since Republican figures in Congress, however, played such a significant role in the evolution of the program, there tended to be a large measure of bipartisan support for it as time went on. The appointment of an outstanding Republican, moreover, to head up ECA did much to assure Republican support as the years went by. The national interest appears to have received primary consideration at all stages although the action of the House Appropriations Committee indicates that there can be marked differences in Congress in regard to the lines along which the national interest lies.

Fifth, the foreign-aid programs have been developed as a result of far-reaching interdepartmental coördination within the executive branch—coördination which, in some measure, appears to have been stimulated by the prodding of Congress. While *ad hoc* machinery accomplished much in the coördination of a program of foreign aid, improvisation was apparent. Stronger machinery in the executive might have made coördination easier.

Sixth, the formulation and implementation of the foreign-aid programs appear to have been facilitated to a very large degree by informal *ad hoc* conferences between legislative and executive staffs. Leading Congressmen in some instances reached a meeting of minds with Administration officials as a result of conversations arranged through the efforts of the individual staff members in both branches of the government. These exploratory exchanges often facilitated the reaching of important policy decisions.

Finally, the experience of the foreign-aid programs illustrated the need for long-range planning within the executive branch. Problems of foreign policy need to be considered for the long haul to ensure that governmental action will be brought to bear before these problems become crises of major consequence.

## CHAPTER ELEVEN

# *Collective Security in the North Atlantic Area*

*The ratification* of the North Atlantic Treaty and the establishment of a Military Aid Program in 1949 marked a revolution in American foreign policy. No longer did the United States seek national security through a policy of avoiding "entangling alliances." In ratifying the treaty the President and Senate of the United States concluded that strong allies in Western Europe were essential for the security of the American people. Ratifying the treaty in their turn, twelve European nations agreed that their security was inescapably bound to that of the United States. The House concurred in these steps by authorizing and appropriating funds for military assistance to give flesh and blood to the skeleton of the regional security system marked out by the Treaty.

This development was able to take place largely because legislative-executive coöperation in the conduct of American foreign policy reached a high-water mark. Indeed, the birth of the North Atlantic Treaty furnishes a classic example of the effective operation of the "advice and consent" clause of the Constitution. Both Secretary of State Acheson and Senator Connally went on record before the Foreign Relations Committee to the effect that the treaty was the result of coöperative enterprise between the executive and the legislative branches in general and between the State Department and the Foreign Relations Committee in particular. The pact was also possible in large measure because the American people, as the result of widespread public interest and debate stimulated largely by



the pronouncements of officials of both political branches, agreed that strong allies in Europe were important for American security.

Under the terms of the treaty the United States and its European allies are committed for all practical purposes to the defense against armed attack of the North Atlantic area. The fact that the Report of the Senate Foreign Relations Committee emphasized that

each party remains free to exercise its honest judgment in deciding upon the measures it will take to help restore and maintain the security of the North Atlantic Area

does not diminish this commitment so long as both the Western European nations and the United States remain convinced that their security against Soviet aggression requires collective action and mutual help. This conviction is expressed in Article 5 of the treaty wherein the parties declare that "an armed attack against one or more of them in Europe or North America shall be considered an attack against them all." How the legislative and executive branches of the Federal Government came to agree upon so radical a departure from traditional American foreign policy is our next concern.

### *The Brussels Pact*

In December 1947, following the breakdown of the London meeting of the Council of Foreign Ministers over the German problem, Secretary of State Marshall and Foreign Minister Bevin felt quite hopeless over the prospects of defending Western Europe against Soviet aggression. Evidently the Soviet Union was stalling for time in the meetings of the Council while economic and political chaos seemed destined to prepare the way for Communist victories in Western Europe. Military weakness was a basic factor in inviting Soviet expansion.

Economic recovery seemed impossible in this atmosphere of despair and weakness. Bilateral military alliances, such as the already concluded Anglo-French Treaty of Dunkirk of March 1947, aimed expressly at Germany with no provisions for integrating separate military establishments, were a very inadequate answer to

Western European insecurity. More comprehensive political, economic, and military coöperation by the Western European countries themselves was thought to be essential by both Bevin and Marshall, who were also convinced that any European effort would be unrealistic without United States support.

Of the two elements essential for the defense of Europe—an integrated effort by Europeans themselves and active United States support of such an effort—only the first could be initiated at once. The Administration, with one eye on Congress and the other on the American taxpayer, felt that the specter of a military alliance with Western Europe might jeopardize the European Recovery Program soon to be laid before Congress. The Rio Treaty,<sup>1</sup> it should also be remembered, had been negotiated with the Latin American states in 1947 by a delegation that included the Secretary of State, Senators Connally and Vandenberg of the Senate Foreign Relations Committee, and Representative Bloom of the House Foreign Affairs Committee. It seemed wise not to attempt too many things at once.

The European countries were accordingly encouraged by the Administration to demonstrate what they could do in the way of establishing a mutual defense system of their own along the lines laid out in the Inter-American system. Senate leaders Vandenberg and Connally had strongly favored the principle of the Inter-American system that an attack on one should be regarded as an attack against all. Bipartisan support on the Hill was thus assured for the Administration's efforts to foster a regional security system in Europe.

Mr. Bevin made the first public move toward Western European coöperation in a speech in Parliament on January 22, 1948, when he declared the time was "ripe for the consolidation of Western Europe" and proposed a treaty between Britain, France, and the Benelux countries as a starting point. In appealing for a general defense arrangement against all aggression in place of the Dunkirk Treaty, limited to German aggression, he was influenced by the Benelux Countries as well as the United States.<sup>2</sup> The result was the

Brussels Treaty, signed on March 17, 1948. Significantly, it followed by a few weeks the Communist *coup d'état* of February 1948 in Czechoslovakia and in turn was followed on the other side of the Atlantic by the passage of the Economic Coöperation Act (Marshall Plan) in April.

The new multilateral treaty was a great stride in the right direction. Its provisions were, first of all, general in character, binding the five signatories to assist one another in accordance with Article 51 of the United Nations Charter in the event of an "armed attack in Europe."<sup>3</sup> Secondly, a Consultative Council, composed of the five foreign ministers, was established, "so organized as to be able to exercise its functions continuously."<sup>4</sup> This Council was to supervise the periodic meetings of Defense and Finance Ministers and a Permanent Military Committee which, in turn, established a Permanent Defense Organization at Fontainebleau with Viscount Montgomery as chairman. The treaty, in addition to providing for integrated military policies, looked to economic, social, and cultural coöperation among the five signatories. Europe clearly had fulfilled its part of the bargain toward the defense of the West in taking the first step. Would the United States come forward to commit men and material in support of the new defense organization in Western Europe?

### *The Vandenberg Resolution*

Just prior to the announcement of the treaty, the State Department conducted highly secret political-military conversations with the Western European countries. A Rio-type treaty including the European countries, Canada, and the United States was felt to be the proper course of action. The Administration, however, was now embarrassed by impending elections, and it was decided not to confront Congress with more demands until after November 1948. Anything like a military alliance with Europe was contrary to traditional American foreign policy and, in conjunction with a heavy program of economic assistance, was thought to be too heavy a diet for Congressmen and Senators about to face the American voter.

Nevertheless the President, immediately following the signing of the Brussels Treaty, announced to Congress on March 17:

This development deserves our full support. I am confident that the United States will, by appropriate means, extend to the free nations the support which the situation requires. I am sure that the determination of the free countries of Europe to protect themselves will be matched by an equal determination on our part to help them to do so.<sup>5</sup>

A year later the new Secretary of State, Dean Acheson, stated flatly to the Foreign Relations Committee that the Brussels Treaty had been signed "with encouragement from the United States."<sup>6</sup>

Although no treaty or military-aid program linking the United States to Europe could be expected before the elections, certain Senators and State Department officials felt that the ground could be prepared. The Senate could give its "advice" at once on a proposed course of action that might later develop into a treaty.

Bipartisan support was essential at all stages, since any treaty would require the support of two-thirds of the Senate. Resort to an executive agreement or joint Congressional resolution was never regarded as a feasible alternative. Would not the Senate insist on its prerogatives under the Constitution? Would the necessary appropriations and authorizations be forthcoming if the Senate had not placed its stamp of approval on such a drastic step in foreign policy? In any event, Secretary of State Marshall and his Under Secretary, Mr. Lovett, on behalf of a Democratic President, began a series of informal talks with Senator Vandenberg, the Republican chairman of the Foreign Relations Committee, and Mr. Dulles, a Republican already considered by many to be the next Secretary of State. Later the State Department officials were to regret that Senator Connally had not been included in these discussions. But who in the spring of 1948 expected a Democratic victory in November? In any event, the wisdom of omitting the ranking minority member of the Foreign Relations Committee from discussions relating to bipartisan foreign policy seems open to doubt.

In addition to the mutual-defense principle of the Rio Treaty, Senator Vandenberg insisted on two further points. First, any

mutual-defense pact with the European powers must be clearly within the frame of the United Nations system. Second, any official United States announcement of such a policy should come from the Senate rather than from the President in the interest of bipartisanship. These points and others were discussed with Mr. Lovett, and the Senator himself is reputed to have typed out a draft of Senate Resolution 239 (the Vandenberg Resolution). Other drafts and suggestions came from the State Department and from the Senate. Lovett then met with the Foreign Relations Committee in executive session for discussions quite free from the hazards of headlines and newscasters. Teamwork was rewarded when Senate Resolution 239 was unanimously reported out of the Foreign Relations Committee on May 19, 1948, and adopted in the Senate by a vote of 64 to 4 on June 11. The President had been "advised" by the Senate to associate the United States for the first time in history in a peacetime alliance with nations outside the Western Hemisphere.

The Committee Report, which incorporated suggestions made by the Administration, states that the Resolution is based squarely on the United Nations Charter. Indeed, three provisions deal with the United Nations and three with the progressive development by constitutional process of "regional and other collective arrangements for individual and collective self-defense in accordance with . . . the Charter." Such arrangements were to embody the principles of "continuous and effective self-help and mutual aid" as a means to national security.<sup>7</sup> The Senate and the State Department had worked hand in hand to establish collective security under the United Nations Charter. They now joined forces to modify these arrangements in favor of regional security arrangements.

Events in the House took a different turn and were highly colored by considerations of domestic politics. Officials of the State Department and Representative Eaton of the Foreign Affairs Committee sought to obtain the incorporation of the principles of the Vandenberg Resolution in an omnibus bill including, among other matters, an authorization for a \$65,000,000 noninterest loan for the United Nations headquarters in New York, but without success. One



possible explanation is that Speaker Joe Martin of Massachusetts, a possible candidate for the Presidency in 1948, may not have wished to add to the stature of Senator Vandenberg by following the latter's lead in foreign affairs. The bipartisan nature of the project continued, however, when both major political parties incorporated in their platforms statements similar to the Vandenberg Resolution.

### *The North Atlantic Treaty*

Two problems loomed large in the minds of the architects of United States foreign policy during the summer: the presidential campaign and the Berlin blockade. The campaign, to the extent that it suggested anything regarding foreign policy, permitted the Administration to continue its policy of identifying American security with that of Europe. The raising of the Berlin blockade in May 1949, following the success of the Allied air lift, implied that the U.S.S.R. respected resolute action on the part of the Western Powers.

Although caution was the watchword, and although Senator Vandenberg was emphatic that no Senator was committed to vote for any treaty as a result of the June 11 Resolution, the State Department felt enabled to announce in July that conversations were in progress with the Brussels Treaty Powers "concerning problems of common interest." The dilemma facing the Administration was whether to push first on Capitol Hill for a mutual defense treaty or for a program of military aid. A treaty, it was argued by some, would be of little value and even harmful prior to a build-up of Western European military strength. A delegation of American Army, Navy, and Air Force officers, headed by Major General Lemnitzer, was sent to London to study these problems as observers at the meetings of both the Brussels Permanent Military Committee and the Permanent Defense Organization at Fontainebleau.

The result of the summer's deliberations was a decision in October, largely on the initiative of the United States and Canada, to establish a regional security system including, in addition to the signatories of the Brussels Pact, the United States, Canada, Iceland,

Denmark, Norway, Portugal, and Italy.<sup>8</sup> The Brussels Pact countries, in their turn, concurred and prepared a statement of their military needs.<sup>9</sup>

The elections over, further steps became possible. The Department of State announced on December 10, 1948, the resumption of active diplomatic negotiations for a North Atlantic "Security Pact." Yet negotiations had merely been slowed rather than interrupted by the elections. The revolution in American thinking is underscored by the fact that some progress continued even during the summer and fall and was reported in the press. The bogey of "entangling alliances" was scarcely raised in the presidential election. On the Hill, Senator Connally now assumed the chairmanship of the Foreign Relations Committee. Although he had been somewhat neglected during the early phases, particularly in the preparation of the Vandenberg Resolution, he now put his shoulder to the wheel.

In January, Dean Acheson succeeded General Marshall as Secretary of State and at once devoted his energies primarily to the passage of the proposed pact, now known as the North Atlantic Treaty. Prior to this, the major load had fallen upon Under Secretary Robert Lovett. He had conducted complex negotiations with the European powers and, with the help of his own State Department people and the staff of the Senate Foreign Relations Committee, had wisely discussed preliminary drafts with *both* Connally and Vandenberg. There was relatively no break when Mr. Acheson took charge. As President Truman's fourth Secretary of State, he took over the reins from the able but weary hands of Marshall and Lovett, and continued the consultations on the Hill with equal vigor and skill. A clear course of policy, containment through a build-up of strength in the free world, had been laid out starting with the Truman Doctrine in 1947. Acheson was among the principal architects of this policy. Its extension in the Atlantic Pact, in contrast to the Truman Doctrine, was developed by the State Department in coöperation with key figures in the Senate. What is more, this policy was intended to buttress the Marshall Plan, which Mr.

Acheson himself had outlined as early as May 1947, prior to his resignation as Under Secretary of State.

The early meetings with the Senate Foreign Relations Committee in January and February 1949 were "informal sessions," closed to the public, since Senator Connally wished to avoid "formal" hearings before the treaty was actually signed by the signatory powers. Indeed, the crucial exchange of views between the State Department and the Committee was conducted long before the hearings. Thus, there was genuine give-and-take between the State Department and the Committee which might not have been possible in the glare of publicity. Moreover, the negotiations were strengthened by the consistency and unity of the American position. Indeed, many changes were incorporated in the draft treaty as a result of this informal consultation until the members of the Foreign Relations Committee were satisfied—satisfied but not yet committed, they were careful to note.

The most important of these changes applied to Article 5, which embodied the key principle, drawn from the Rio Treaty, that an "armed attack" on one or more of the members of the North Atlantic area would be considered an attack on all. A knotty question presented itself at once. What was the United States or any other member to do in the event of "armed attack"? Was the United States automatically committed to go to war? The Senate Committee Report was very clear that such was not to be the case. Rather the signatories were to be left free to decide what action to take in each instance "to restore and maintain the security of the North Atlantic area." The phrase "such action as it deems necessary" was added to the text of Article 5 after informal consultation between State Department officials and members of the Senate Committee.

In his testimony before the Senate Committee on April 27, Mr. Acheson finally made it very clear that the United States would not "automatically be at war if one of the other signatory nations were the victim of an armed attack. Under our Constitution, the Congress alone has the power to declare war." The United States

was simply bound to make an "honest judgment" as to what action was necessary to defend the North Atlantic area, which was carefully defined in Article 6.

Did the phrase "such action as it deems necessary" seriously weaken the treaty? Was this an escape hatch for the United States? It was added apparently at the insistence of Senators Vandenberg and Connally. The European powers agreed to this addition, which was informally derived as "advice" from the Senate and which necessitated renegotiation with the other powers. The phrase "honest judgment" was clearly used by Mr. Acheson in the Foreign Relations Committee to reassure the Senators that there was nothing in the treaty to alter the constitutional powers of Congress or the President.

These points and many others were clearly the most delicate of issues between the State Department and the Hill on the one hand and between the State Department and foreign governments on the other. They were thoroughly familiar, however, to any of the general public, including the personnel of all foreign missions in this country, that cared to read the daily papers.<sup>10</sup> Did the benefits of this publicity from the point of view of public understanding of the issues involved outweigh the possible disadvantages from the point of view of the negotiations? It is difficult and sometimes dangerous to conduct such negotiations in a goldfish bowl.<sup>11</sup> This dilemma is ever present in the conduct of diplomacy in a democracy.

The State Department and the Senate Committee recognized the importance of full public understanding and debate and consequently agreed that the text of the treaty should be published three weeks before it was signed by the signatory powers in Washington,<sup>12</sup> and that public hearings before the Foreign Relations Committee should soon follow. The press, however, was discussing the specific provisions of the proposed treaty as early as November, and one correspondent was pleading as late as January 12 that the Government "make public not the draft of the agreement under active consideration, but a statement of the principles that are guiding it in its private talks with the other proposed North Atlantic Pact

powers.”<sup>13</sup> In this way the American public could discuss the issues “more intelligently,” it was argued, and “the Administration would have more guidance about whether it was behind or ahead of public opinion.”

These are cogent arguments, but they focus heavily on domestic factors. Before encouraging public debate at home, the Administration needed to settle a number of issues in its own mind involving other powers. Who should be asked to join the proposed pact? What, if any, should be its relation to our arms assistance program? What were the effects upon the Soviet Union of the Vandenberg Resolution and the discussions between the Western Union powers and the United States in the summer of 1948? What would be the influence of the pact, with or without an arms aid program, upon the European Recovery Program already under way? The answers to these questions required careful evaluation and too much study to be settled at that stage by the whim of public opinion. The problem had to be analyzed on the basis of the most searching intelligence and the alternatives of policy had to be thoroughly explored before the maximum benefit could be gained from public discussion. It would have been awkward to be committed too far or to have raised too many issues for the sake of public understanding or possible misunderstanding before the Administration and the Senate Committee were satisfied with a course of action to lay before Congress and the people.

It is evident that the sixteen days of public hearings before the Senate Foreign Relations Committee, beginning on April 27, 1949, were as much to provide an opportunity for public debate as to bring the executive point of view before Congress. The latter task had already been performed.

Two known opponents of the treaty who were not members of the Foreign Relations Committee, Senators Donnell and Watkins, were permitted the unusual privilege of attending the hearings with the right to examine witnesses. Unusual effort was taken to air all possible aspects and implications of the treaty and to hear every point of view.



In many instances the members of the Senate Committee seemed anxious to ask questions of Administration witnesses that would be answered in a way desired and anticipated by both the committee and the State Department. Such "questions" were evidently intended for the ears of other Senators and the public at large. Thus Senator Vandenberg noted that he had been requested to ask a question and wanted to do so to keep the "record clear." Was there anything in the treaty that would lead "automatically to a declaration of war on our part"? To which Mr. Acheson replied, "No, sir," and finally with a little encouragement, "Unequivocally 'No.'" <sup>14</sup> On this occasion relations between the Secretary of State and the Senate were thoroughly correct and seemed quite cordial at times. The State Department was always represented at the hearings. Teamwork between the Committee staff and State Department officials was constant and close in drafting reports, answering questions, and steering the treaty through the Senate.

A second important issue was raised by the chairman and clarified during the course of the hearings. The pact would be utilized only if the United Nations machinery broke down. Any action to resist armed attack would be in "self-defense" in the sense of Article 51 of the Charter, would be reported to the Security Council, and would be terminated as soon as that body took up its responsibility of maintaining peace and security. In the words of a commentary drafted by members of the Committee staff: "The Treaty thus operates inside the Charter but outside the veto."

Since their experience as members of both Mr. Hull's Advisory Committee and the American delegation at San Francisco, many Senators have felt that the United Nations Charter is as much their contribution to world order as the State Department's. As a consequence, foreign policies since 1945 have generally been examined in the Senate for their consistency with United States obligations under the Charter. After the announcement of the Truman Doctrine in 1947, for example, Senator Vandenberg sponsored a proposal which was incorporated in the "Act to Provide Assistance to Greece and Turkey, 1947," making steps under that Doctrine con-

tingent upon the absence of unfavorable action by the United Nations General Assembly and Security Council.<sup>15</sup> This step seemed necessary to the Senator because, in contrast to the Charter, the Truman Doctrine had been announced by the President with little if any legislative-executive collaboration.

The hearings clarified a third issue, the relation of the pact to the Military Assistance Program, which was already one of the four pillars of Administration foreign policy. The third point of the presidential Inaugural Address of January 20, 1949, was in effect a reiteration of the Doctrine bearing his name: "to strengthen freedom-loving nations against the dangers of aggression." After indicating that the will to resist might deter aggression, the President had gone on to say: "We will provide military advice and equipment to free nations which will coöperate with us in the maintenance of peace and security."

We have already seen that the Administration had been undecided on the priority between arms aid and a security pact. The decision in favor of the latter was reached in part as a result of bipartisan consultation with the Hill. Key Senators on the Foreign Relations Committee did not wish the controversial Military Assistance Program to be taken up at this time lest it jeopardize the treaty soon to require the support of two-thirds of the Senate. Moreover, Republicans Vandenberg and Dulles appear to have been less convinced of the validity of the arms aid program than they were of the treaty, although "collective arrangements . . . based on continuous and effective self-help and mutual aid" were stated in the Vandenberg Resolution as a proposed course of action.

The treaty itself provided in Article 3 that the parties, "by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack." Did this mean that a Senator who voted in favor of the pact should feel obligated to vote for the Military Assistance Program?

This issue was heightened when the State Department announced, on April 5, the day following the signing of the treaty, that official

requests for military assistance had been received from the five Brussels powers and from Italy, Denmark, and Norway.<sup>16</sup> Why was the information released at this critical moment? The answer may be that the American system of government necessitates the State Department's simultaneously watching Congress and foreign governments. Having agreed not to introduce the controversial measure formally on the Hill prior to the approval of the pact, the State Department may well have felt, on the other hand, that some gesture was needed to assure the Europeans that the principle of "mutual aid" was being taken seriously to breathe life into the pact.<sup>17</sup>

Mr. Acheson, as the first witness, stated frankly that in the Administration's view the Military Assistance Program was an essential element of the security policy of the United States. The President, he said, would soon recommend that separate legislation be enacted authorizing \$1,130,000,000 of arms aid for Atlantic Pact countries and \$320,000,000 for other countries, including Greece and Turkey. In reply to questions by Senators Vandenberg and Connally whether a vote for the treaty carried with it a duty to vote for the arms program, he declared that the United States was obligated only to the principle of self-help and mutual aid and not to any specific military aid program.

The judgment of the executive branch of this Government is that the United States can and should provide military assistance to assist the other countries in the pact to maintain their collective security. The pact does not bind the Congress to reach that same conclusion, for it does not dictate the conclusion of honest judgment.<sup>18</sup>

The committee report and the statements of Vandenberg and Connally on the Senate floor endorsed the "honest judgment" formula. Article 3 did not bind the United States to the proposed Military Assistance Program but only to the general principle of self-help and mutual aid.<sup>19</sup> The two Senators and the Secretary of State then took the utmost pains to show that the Senate retained its freedom of action. Yet the two measures were as close as two

peas in a pod. Tactically it was wise apparently for the Senate to demonstrate its independence of the executive branch.

A fourth issue was actively discussed in the committee hearings and apparently laid to rest, only to appear later like Banquo's ghost to plague the Administration. Senator Hickenlooper inquired whether the United States was obligated under the terms of Article 3 to "supply substantial numbers . . . of troops, and organizations of American troops, to implement the land power of Western Europe prior to aggression." Mr. Acheson replied: "The answer to that question, Senator, is a clear and absolute 'No.'"<sup>20</sup>

When in 1950-51 the Administration sought to strengthen the defenses of Western Europe with integrated forces under a supreme command including American troops, this answer of the Secretary of State was cited by a few Administration critics as evidence of bad faith. Yet the defense of Europe in 1949 was a different matter from the defense of Europe in 1950. Korea showed that weakness invited military aggression. In 1950, the Administration was convinced that the defense of Europe required American forces committed prior to attack until such time as the Europeans themselves had developed "situations of strength." It was not the provisions of the Atlantic Charter that either obligated or induced the President, as Commander in Chief, to commit American forces to the European theater in addition to those already on occupation duty but the security requirements of the United States.<sup>21</sup>

Inevitably in a period of cold or half war the powers of the commander in chief must be exercised in a manner very close to that demanded by full-fledged war. This many Congressmen and Senators were reluctant to concede without a declaration of war by Congress. Yet a state of war in 1950 would have jeopardized the Atlantic Pact coalition, a coalition thought by the Administration to have high priority in American strategic planning.<sup>22</sup>

The constitutional issue of Presidential authority in the disposition of troops was pressed by those who disagreed with Administration policy. Senator Taft declared that, occupation duties excepted, the President had no power to send troops to Korea or Europe or to an

international command without the consent of Congress.<sup>23</sup> In the House, Representative Coudert sought to tie the President's hands by legislative provision in appropriations acts forbidding the expenditure of funds for troops abroad without the prior approval of Congress. A resolution introduced by Senator Wherry would have forbidden the dispatch of troops to Europe without policy direction by Congress.

These views implied an assertion of Congressional authority in foreign affairs undreamed of by the Founding Fathers and unsubstantiated by history. [Since the founding of the Republic, Presidents, without specific Congressional sanction, have called upon the armed forces to defend American interests. National security requires nothing less.] Today, more than ever before, the application of force cannot wait upon Congressional debates. In this instance, it is fair to say, Senators of both parties rallied to the defense of executive authority. The President indicated that, while he need not ask for Congressional permission to send American troops abroad, he would consult the Senate Foreign Relations and Armed Services Committees before furnishing troops to the North Atlantic Treaty area.<sup>24</sup>

An important aspect of these events is that foreign policy in the United States is debated on constitutional grounds as well as on its practical merits. Indeed it seemed obvious in the troops-to-Europe debate that those who actually were challenging the substance of policy often preferred to argue on constitutional grounds. It is also arguable from the "Great Debate" of 1950-51 on Far Eastern policy that some of those who opposed the European policy of the Administration had a different view of Presidential authority when applied to Asia. Although these constitutional issues were apparently resolved in an overwhelming vote of 82 to 13 on July 21, 1949, in approval of the Atlantic Treaty, it was inevitable that they would be reexamined by those who wished to reexamine policy itself following the outbreak of hostilities in Korea.

The Senate vote was the reward of careful teamwork between the State Department and the Foreign Relations Committee. Unlike



the case of the Versailles Treaty, the Atlantic Pact was not destroyed by a barrage of reservations. The significant views of the Senate were already incorporated when the treaty was presented for approval.<sup>25</sup>

### *The Military Defense Assistance Program*

The influence of the House as well as the Senate in foreign affairs became evident when the Administration sought to implement the "mutual aid" features of the treaty with a Military Assistance Program. Both authorization and appropriations had to be obtained from Congress as a whole. Congressional influence was evident in many aspects of this phase of the program. First, as in the case of the European Recovery Program, Congress insisted upon careful executive-branch coördination in both the formulation and the implementation of policy. The legislation is specific on this point. The Foreign Affairs Committee Report states that arms aid is a "foreign-policy program" that is one of several instruments of policy to be wielded in closely integrated fashion under the direction of the State Department.<sup>26</sup> Actually, the State Department, at the direction of the President, had been coördinating the activities of the agencies concerned in this project since January 1949. In fact, State had considered military assistance as a possible course of action even prior to its planning for the Atlantic Pact. The views stated in the Committee's report were also the views of the Department of State.

Second, on the insistence of Congress the use of \$900,000,000 of the total \$1,222,500,000 appropriated was contingent on the drawing up of an integrated defense plan by the North Atlantic Council specified in the Atlantic Pact.<sup>27</sup> The influence of the House was particularly marked on this point. Congressmen John Vorys and John Lodge are reported to have been insistent that the defense of Western Europe required integrated military forces under a unified command. This concept was thoroughly acceptable to representatives of the executive branch, who were apparently surprised to find some Congressional thinking somewhat in advance of their own. The House Report states: "Allied with self-help and mutual assistance

is the concept of specialization. Each element in the North Atlantic system must have its own job to do.”<sup>28</sup> Such a concept, it was felt, would bring a measure of efficiency in planning for the defense of Europe, just as economic integration was felt to be important for economic recovery. A year later, when MDAP was up for renewal, the Secretary of State and other Administration officials extended coöperation and specialization among the North Atlantic partners to include the concept of “balanced collective forces.” General Bradley explained to the Foreign Affairs Committee in reply to Congresswoman Bolton from Ohio that Administration officials felt “that all the countries of the North Atlantic area should keep in mind the needs of the twelve nations as a whole rather than their own individual needs.”<sup>29</sup>

Third, on the insistence of Congress the Declaration of Policy for the Mutual Defense Act specifically stated that European economic recovery, essential to peace and security, was to have clear priority over the demands of rearmament. Administration officials, it is evident from Congressional hearings, were quite ready to agree on this point.

Fourth, at the insistence of the House the Declaration of Policy also included the statement that it was still United States policy to “achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments.”<sup>30</sup> This view was included after Secretary of Defense Johnson, appearing before the Foreign Affairs Committee in support of MDAP, indicated that the United States no longer sought national security through disarmament, universal or otherwise. Certain Congressmen, however, led by John Vorys, who was mindful that disarmament was traditionally a basic element in United States foreign policy, and that Soviet propaganda portrayed Americans as warmongers, insisted on a restatement of a policy of international disarmament “under adequate safeguards.” Thus the United States continued on record as favoring any disarmament proposal such as the “Baruch Plan” that promised security to all.

Finally, the Mutual Defense Assistance Act of 1949, partly to

please a Congress grown tired of piecemeal aid requests, consolidated all arms grants into one program. While Western Europe was primarily favored and received \$1,000,000,000, another \$314,000,000 worth of aid was provided for Greece, Turkey, Iran, Korea, the Philippines, and the "general area" of China. The countries receiving aid were not therefore identical with the signatories of the Atlantic Pact, a point emphasized during the treaty hearings to indicate that Senators supporting the treaty were not obligated to support MDAP.

The Act provided also for supervision of the program by the State Department in conjunction with the Defense Department and ECA. Coördination overseas was provided by a European Coördination Committee (ECC) consisting of the American Ambassador to England, the ECA Special Representative for Europe, and a senior United States military representative for military assistance in Europe. The committee was to be assisted by an executive director and a small staff of technical experts. The program was continued for the fiscal year 1951 with an appropriation of \$1,222,500,000 and was supplemented by an additional \$4,000,000,000 in August 1950, following the outbreak of Korean hostilities.

In the autumn of 1951, foreign economic, technical, and military assistance was lumped together as a single package in the "Mutual Security Act of 1951." Congress had made clear its preference for the "single-package" approach to foreign-aid programs. It also continued to prescribe in detail the administration of such programs. The Economic Coöperation Administration was terminated and the administration of economic aid was made the responsibility of a new Mutual Security Administration in the Executive Office of the President. The administration of military aid was made the responsibility of the Defense Department while State retained the operation of the technical assistance program. Mr. Harriman was made the Mutual Security Administrator and charged with over-all coördination.<sup>31</sup> There was, moreover, a marked change in the balance between military and economic aid. Where the Mutual Defense Act of 1949 had provided that European economic recovery was to have

clear priority over the demands of rearmament, the emphasis of the Mutual Security Act of 1951 was quite the reverse. The sum of \$5,997,650,000 was authorized for military aid and \$1,485,750,000 for economic assistance. Fortunately the Act had some flexibility in this respect. It provided that 10 per cent of the funds might be transferred from military to economic aid in Europe at the discretion of the President. When rearmament threatened to upset European economies, particularly those of Britain and France, the Administration was fortunately able to shift funds to economic purposes. Yet some Congressmen and Senators had tried to reduce the scope of this important executive discretion.

In sum, there were on the whole careful coördination and teamwork between the legislative and the executive branches on the formulation of a policy of military assistance. Yet the first bill elicited some unfavorable opinion when it was first presented to Congress. Executive discretion was reduced. Closer teamwork between the two branches in the formulation of the legislation might have reduced friction. Possibly the State Department was a little tardy in seeking a meeting of minds with the House, but coöperation was close once the legislation was introduced on the Hill. The Senate had, of course, played the leading role in connection with the treaty. The problem was to avoid incurring the jealousy of the House, fully conscious that it also had a crucial role to play. Collaboration was rewarded when, less than a year later, the completion of an integrated defense plan was announced by the Defense Committee of the North Atlantic Treaty Organization (NATO) and approved by the Council. The Western Allies announced both the appointment of a Supreme Commander and plans for a joint defense force including American troops.

A number of conclusions can be drawn from this case history. First, bipartisan support was forthcoming for many reasons. Executive policy preparation was thorough and well integrated. The Administration's pleading on the Hill was effective because of its consistency and its full and early exposition of the facts. There was a high degree of consultation between the State Department

and the Hill long before the Administration was committed to either a treaty or an arms aid program. As a consequence, key figures at both ends of Pennsylvania Avenue recognized the nature of the crisis. Bipartisan support was also forthcoming because leaders of each political party felt that they were able to make major contributions in policy formulation. It was tactically sound to have the Vandenberg Resolution as a kickoff. The policies outlined had been discussed with the State Department. The chances of their being supported by the Senate and by the Republicans were greatly enhanced.

Second, the establishment of NATO and its accompanying arms aid program demonstrated once more the importance of the House in foreign affairs and that the power of the purse continues as an ever-present check on executive power. No longer was it sufficient for the President and his Secretary of State to consult only the chairman of the Senate Foreign Relations Committee. The pact would have fallen flat indeed unless it had been implemented by weapons and the promise of men to follow in the event of danger. These two ingredients could not be assured without the support of the House Armed Services and Appropriations Committees. This meant that the time and energy spent by both branches in mutual consultation increased enormously at a time when the work load already threatened to tax the limits of human endurance. The load was particularly heavy on executive officials who, in the absence of any central policy committee, had to consult with several House and Senate Committees. The Foreign Affairs and Foreign Relations Committees were only two among many. Others included the House and Senate Armed Services and Appropriations Committees.

Third, the staffs of the Congressional committees played as crucial a role as they did in the launching of the Marshall Plan. Much of the credit for effective teamwork between the State Department and the Senate Foreign Relations Committee, for example, is due to the competence of the latter's chief of staff, F. O. Wilcox, and his team of able associates. Without such help, the Senators could scarcely have been so well prepared to make the grave decisions they did,



and coöperation with the State Department would have been immeasurably harder. Similar yeoman work was performed by the staffs of the House Foreign Affairs Committee and both the Armed Services Committees. Nevertheless, the Senate Foreign Relations Committee staff in particular has achieved the quality of performance that was the earnest hope of the authors of the Congressional reorganization of 1946-47.

Fourth, the success of legislative-executive collaboration was influenced by the quality of key committee chairmen. When Senator Vandenberg was in agreement with the State Department on a given matter, the Foreign Relations Committee and even the Senate were reasonably sure to go along. This was true to a somewhat less extent of Senator Connally. Vandenberg was always a key figure, whether chairman or ranking minority member, for that matter. The President and the Secretary of State could never forget that the treaty would require the supporting votes of many Republicans, and Vandenberg was the man who could deliver the votes.

The House Committee stood in some contrast. Congressmen Kee and Eaton exercised less influence over their associates. This tended to increase the problem of liaison for the Department of State. Indeed, it was most important to persuade Congressman John Vorys, who carried with him thirty or forty Republican votes.

Fifth, the birth of NATO raised serious problems in connection with the press and public opinion. The Administration, for example, was constantly faced with the dilemma of telling the public too much and too soon, to the detriment of delicate negotiations with foreign powers, or of ultimately facing a situation in which public opinion might not be prepared to support such a radical development in foreign policy. To obtain Congressional understanding and support it was necessary to obtain public understanding and support. Yet members of Congress, especially Senators, disliked learning the thinking of the executive branch from State Department releases to the daily press. Another complicating factor was that in the absence of official pronouncements speculation tended to run rife in the press and to lead to misapprehensions.

Sixth, the story of the Atlantic Pact reveals that United States foreign policy is inevitably shaped by the policies of other powers, which are largely beyond our control. Although Sweden could not be persuaded to join, the other members were induced to adopt some measure of political and economic collaboration by the aggressive behavior of the Soviet Union. The United States itself, in some degree, was persuaded to adopt the Marshall Plan and the North Atlantic Treaty by the Czechoslovakian *coup d'état* and the Berlin blockade. The Brussels Pact of March 1948 helped to convince the United States that there was a European will to resist worth supporting.

Finally, the establishment of NATO suggests that foreign affairs can be conducted effectively, in spite of our governmental system of checks and balance, if sufficient thought and effort are devoted to coördinating the labors of the two branches. Most important of all, men of good will and intelligence were in positions of responsibility. In some respects the procedures used resembled those intended by the framers of the Constitution. The Senate, through its Foreign Relations Committee, acted as a "council of advice" while the Administration, after receiving "advice," took full responsibility for the negotiations abroad. The House, in its turn, played its constitutional role once it agreed that danger in fact existed and that a regional security organization was the best answer. Agreement with the State Department's estimate of the situation was facilitated because the House had had independent access to the same facts as a result of first-hand experience abroad on the part of many of its members during and since the war. The State Department was also convincing to Congressmen because it was careful to emphasize its concern for national security, and it avoided the role of apologist for poor foreign cousins.

Beyond all of this there were two especially propitious circumstances: first, a set of economic and political facts which reasonable men could agree upon; second, a course of action that was within the capacity of man both to devise and to achieve. Unhappily, these conditions are not always present in international affairs.

## CHAPTER TWELVE

# *Far Eastern Policy*

*The frustrations* of recent United States policy in Asia have strained our procedures for the conduct of foreign affairs nearly to the breaking point. While Communist aggression was finally halted in Korea in 1951, it threatened to erupt elsewhere. The forces of Ho Chi Minh in Indo-China continued to exact a serious toll from Viet Nam and the French, who were supported by American equipment. Heavy guerrilla fighting engaged the attention of numerous British battalions in the Malay Peninsula. Burma, standing apart from the Commonwealth, seethed with her own internal disorder. While India and Pakistan remained in the Commonwealth, they were at loggerheads over Kashmir. Prime Minister Nehru denied that his country was faced with a choice between East and West. Indonesia, newly liberated from Dutch rule, struggled with the problem of self-government and remained wary of American proposals for economic development.

Peculiarly discouraging to Americans was the case of the Philippines, which found political and economic independence a hard row to hoe. Although a peace treaty was in prospect, Japan remained dependent upon her former enemies for military defense and economic support. While a build-up of Japanese power seemed desirable from the American point of view, such a scheme did not sit well with Asiatics or the Commonwealth.

In nearly all of Asia hunger stalked eroded hills and overworked river valleys as teeming populations strained the capacity of the exhausted soil and crops were neglected in guerrilla fighting. The United States, in short, was faced in much of Asia with a witch's brew of poverty and hostility.

Yet in spite of the urgency of this situation, the executive and the legislative branches have not worked well together on Asia policy, for many reasons. First, the problems of the East are even more complex than those of Europe. No course of action has seemed to hold out any real prospect of success. This is one reason why the President and Congress were often at odds.

✓ Second, Asia is known to few people in the United States, and those who are familiar with the area are quite likely to disagree on policy.<sup>1</sup>

↓ Third, since the clouds of failure have long hung over Asia, some members of the opposition party have been understandably reluctant to be associated with a problem for which there was no apparent solution. Better to berate existing policy than to be identified with a failure. Indeed, the Republicans undoubtedly profited at the polls in 1950 from the Administration's Asiatic headaches. A statement of the minority members of the Foreign Relations Committee that, among other things, they were not sufficiently consulted by the Administration on China policy tells only part of the story.<sup>2</sup> The price of bipartisanship in Asia since the war would have required a change in policy more radical than the Administration was ready to undertake.

Finally, the Administration had little success in sharing with Congress the frustrations of Asia until the hearings on the removal of General MacArthur in the spring of 1951. While it is doubtless true that, from 1947 on, key figures on the Hill were consulted off the record and in executive committee session, no legislative-executive solidarity emerged to cope with the China situation.<sup>3</sup> In part, at least, this failure may have stemmed from the weakness of the Administration leadership. In the MacArthur hearings, however, the Administration presented its case with skill and vigor. The problems of the Far East and the outlines of a policy emerged in the perspective of world politics, and some measure of support was forthcoming for the Administration, if not for Mr. Acheson. It is fair to say, however, that as dramatic an incident as the dismissal of General MacArthur may have been necessary to focus full public

and Congressional attention on the issue in hand. Prior to that time it was unlikely that executive officials could have gained public and Congressional attention to such an extent.

The argument of some, however, that the United States has had no China policy since World War II, is twisting the facts. Leading from insufficient military strength and with priority assigned to the build-up of Europe, the Administration sought to resist Communism without committing American military forces on the mainland of China. From early 1947 on, the Administration was worried not only about Communist advances in China but about the appalling weakness of Western Europe as well. The military weakness of the United States was another factor limiting the action that could be taken in the Far East. Once the Communists had gained control of China, the Administration appeared for a brief moment in 1950 to be fostering Titoism in China. Such a course was tortuous and difficult to share with critics on the Hill. The President and the Secretary of State, in January and March 1950, sought in public addresses to maximize the historic and potential differences between Russia and China. The Russians, Mr. Acheson noted, were encroaching upon the Chinese domain, and the United States must do nothing "to deflect from the Russians to ourselves the righteous anger, and the wrath, and the hatred of the Chinese people, which must develop." Therefore, at that time, the President felt that no steps should be taken to keep Formosa out of Communist hands.<sup>4</sup>

The Administration had little room for maneuverability, however. Senators Smith and Knowland had already urged, after conferring with General MacArthur, that the United States should take military steps to save Formosa. On these and other matters, such as the admission of the Peoples' Republic into the United Nations, the United States backed and filled and spoke with many voices.

Might agreement have been reached with Congress on the main outlines of a China policy if the Administration had discussed the facts more fully with Congressional leaders? The answer is not a simple one. Differences with Congress were fanned by differences in the executive branch. General MacArthur, it developed, attached



more importance to Asia than did other officials. The President and Congress could not pull together so long as there was fundamental disagreement in the executive branch.

There were points of view on Capitol Hill that could never have been reconciled. Too many Congressmen saw that there were votes to be gained from the discomfiture and worries of the Administration. The revelation of Communist espionage activity left a deep impression on the public mind and little room for diplomatic subtleties regarding United Nations membership for the Chinese Communists. After all, Tito was different. He had openly defied Moscow. A similar development in China grew steadily more remote. Above all, the duties of most Representatives and Senators simply did not give time to study all the angles in the Far East.

As a result of these difficulties a "Nationalist bloc" moved into a vacuum on Capitol Hill. Bitter words were directed at the Department of State, sometimes fairly but oftentimes not. The scalp of the Secretary was demanded by the Senate Republican Policy Committee as propitiation for calamities in Asia the day before he emplaned for the critical negotiations in Europe on German rearmament. Wherever the fault lay, the United States scarcely rose to the challenge of leadership. At home there were discomfiting signs of breakdown in morality. "Personal advance by denunciation" in public or private life came close to being a reality.<sup>5</sup> The spectacle of open warfare between the State Department and Congress and to a less extent between the major parties was not reassuring in the light of increasing Communist pressure. The complexities of the Far East were largely the cause of the confusion, but there were errors of judgment at both ends of Pennsylvania Avenue.

### *Congressional Investigations*

Until the MacArthur hearings it is doubtful whether Congressional investigations were helpful in arriving at a solution of problems in Asia. The investigations of the State Department and Far Eastern policy in December 1945 involving Patrick J. Hurley, Ambassador to China, and those centering on Owen Lattimore

and John Service in 1950, were sensational in character and contributed more to a scapegoat theory of world affairs than to an understanding of the basic issues. The predicament of the United States, it appeared from the general tone of these hearings, was caused by the fact that an ailing President had been sold a bill of goods at Yalta. An appeal by Mr. Acheson to the spirit of the Sermon on the Mount, when questioned by the press about Alger Hiss, failed to help matters. The Secretary, who in happier times had been quite successful as an advocate for the State Department's programs on Capitol Hill, was often portrayed to the public as "soft" on the Communists. His determined efforts to build up non-Communist Western Europe were quite forgotten.

Although considerable evidence was already made public to show that the steps at Yalta to elicit Soviet support in the war against Japan were taken on the basis of strategic considerations that then appeared sound, the public received a different impression. Anti-Administration voices simply got the upper hand. While there was much legitimate and well-reasoned criticism of the Administration, a few individuals did much to persuade the American people that Communist plotters in the State Department were the principal cause of the sorry turn of events in the world. For a time both the supporters of the Administration and its sincere critics were nearly crowded from the headlines by the charges of Senator McCarthy. Not until the Administration presented its full case in the MacArthur hearings of 1951 were Far Eastern problems convincingly presented to the public in the perspective of global strategy.

One is tempted to speculate, therefore, whether much of the difficulty lay in the weakness of the Administration's leadership. Public response to the facts presented to the Senate at the MacArthur hearings was reassuring. Were the earlier gains of incorrigibles such as Senator McCarthy due in part to the default of the executive in presenting the dilemma of the Far East to Congress and the American people? The answer to this question is by no means clear. When, for example, the State Department published the record of United States relations with China, it was accused by many of

"whitewashing" the Administration. Meanwhile the Administration had to start up the field from behind its own goal line to show that, owing to the course of military events at the end of the war, little or nothing was given away at Yalta that the Russians were not going to take anyway and that the Chinese Nationalists at the time were quite satisfied with the Yalta arrangements and were even prepared to make further concessions to the Soviet Union.<sup>6</sup>

Several facts did emerge, however, from the investigation of Far Eastern policy by the Senate Foreign Relations Committee in December 1945. First, Franklin Roosevelt, like "T.R.," was his own Secretary of State, and his subordinates were long uncertain how many "I.O.U.'s" remained outstanding after his death.<sup>7</sup> This made the proper coördination of policy difficult indeed.

Second, mutual confidence did not exist between Ambassador Hurley and his subordinates in the field, who openly, but in his absence on a trip to Washington, recommended to the Secretary of State that arms be supplied to the Communists as well as the Nationalist forces. In their view, the Communists were more willing to fight the Japanese, and continued support of Chiang simply played into Russian hands, since a Kuomintang without social and economic reforms was losing the support of the peasants.<sup>8</sup> Was it proper for embassy officials, in the absence of the chief of mission, to appeal to the Secretary of State for an alteration of policy? The Republicans thought not and were very critical of this step taken by George Atcheson, John Service, and others in the Ambassador's absence. Were the Communists led to believe that Hurley did not speak for the State Department?

The Democrats, however, tended to favor Mr. Byrnes's defense of his subordinates in this action. They also seemed satisfied with the Secretary's explanation to Senator Bridges that a Federal grand jury in the "Amerasia" case did not find that the evidence submitted by the Department of Justice warranted an indictment against Service. Consequently, the Secretary noted, following the grand jury proceedings, he wrote a letter of congratulation to Service upon the latter's restoration to duty in the State Department. There were

strong partisan overtones throughout these hearings in the early days of December 1945.<sup>9</sup>

Third, activities in the field were not well coördinated. The Ambassador complained that, owing to the "weakness" of the Foreign Service, American policy was "hydra-headed."<sup>10</sup> Thirteen separate agencies besides the Embassy, he noted, were operating in China, including among others the Office of War Information, whose personnel were often better paid than State Department personnel, the Foreign Economic Administration, and the Office of Strategic Services. Service, for example, who, in Hurley's view, was undermining Chiang, was attached to General Stillwell's staff as political adviser. Our foreign relations, he appealed to the Senators, were not being conducted through the Department established by Congressional statute for that purpose.

Finally, confusion seems to have been rife in the executive branch itself about the situation in China. Hurley assured the Senators that the Chinese Communists were not Communist at all. He had had the word of Molotov on this score in Moscow, where he had been assured that the Soviet Union recognized the Nationalist Government as the only government in China. He had been successful, he noted, in bringing Chiang and Mao Tze Tung together in talks to end the civil war. The former had abandoned the idea that "the Communist party in China was an instrument of the Soviet Government in Russia." A contrary view of the Chinese Communists, however, was forwarded to Washington from the Embassy in Moscow.<sup>11</sup> Yet Hurley persisted in his denunciation of his subordinates who recommended that the State and War Departments consider giving some aid to the Communists during the war against Japan.

These factors and others helped to undermine confidence in the Department of State. While some benefits have doubtless resulted from disclosures to Congress, were they worth the price? The activities of Service and others have provided ammunition for the unscrupulous as well as sound lessons for the scrupulous. Clumsy "loyalty" procedures and the political winds of Capitol Hill can endanger the morale and quality of work of foreign affairs officials.

Owing to the partisan nature of some investigations held in the glare of intense publicity it is easier to tar and feather a man's reputation than to wipe it clean. While the specific charges of Senator McCarthy against Owen Lattimore and others remained unsubstantiated, Senator Tydings lost his Senate seat in a campaign in which he was accused of "whitewashing" the State Department. Clearance by loyalty boards does not always suffice to restore reputations. Pressure on government officials to conform has in times past destroyed initiative and led nations down the path of disaster. Even if our China policy needed major surgery, the instruments used seemed unnecessarily blunt.

More important is the fact that these investigations did not clarify the major issues of foreign policy for the public nor make legislative-executive relations more manageable. Little emphasized were such deficiencies in executive performance in the war, for example, as the announcement of a policy of "unconditional surrender" with inadequate planning and coördination.<sup>12</sup> Nor was the fact brought out in the Hurley and Lattimore hearings that disaster befell the United States because diplomatic cards were led from a weak military hand. True, the hearings of the Armed Services Committees in the years since the war did emphasize the importance of military strength, but the relation of foreign policy to over-all national strength was not sufficiently clarified in the public mind until the strands of grand strategy were drawn together in the MacArthur hearings.

These hearings by the Senate Armed Services and Foreign Relations Committees in May and June 1951, on the military situation in the Far East and particularly on the removal of General MacArthur from his Far Eastern command, were noteworthy in the following respects.

First, it was evident to all that grave issues were at stake, and the chairman, members, and witnesses kept the national interest in mind. The Korean war was an incentive here. Generally speaking, there do not appear to have been harmful disclosures of information.

There was careful preparation, in the second place, on the part of both the Administration and the anti-Administration forces. It be-



came clear that key executive officials, military and civilian, were united on the major issues raised by the dismissal. The evidence of thorough coördination and careful planning within the executive branch on the policy to be followed in Korea was impressive.

In the third place, both the careful preparation of the hearings and their range placed specific problems in the perspective of total foreign policy. The relations of foreign policy to military policy, of Europe to Asia, of American security to the United Nations were laid out for Congress and the citizens to see. Previously questions of strategy and foreign policy in Asia had tended to appear in unrelated segments.

Finally, in contrast to earlier hearings, Administration supporters in the Senate were provided with some ammunition to meet the criticism and questions of the opposition. Searching questions brought carefully considered answers. For those who cared to follow them, the MacArthur hearings, in contrast to earlier hearings on Far Eastern affairs, clarified the strategic issues facing the United States.

### *China Aid Programs*

Congress, rather than the executive, dominated the formulation of the China Aid Act of 1948.<sup>13</sup> The President, in December 1945, had authorized General Marshall to state to Chiang "in connection with the Chinese desire for credits, technical assistance in the economic field, and military assistance . . . that a China disunited and torn by civil strife could not be considered realistically as a proper place for American assistance along the lines enumerated."<sup>14</sup> The United States sought in both the Marshall and the Hurley missions the "unification of China" by peaceful means and the "integration" of the Communists into the army and government of Chiang. On his recall from China, Marshall stated on January 7, 1947, that the best hope of unity lay in the "assumption of leadership by the liberals in the Government."<sup>15</sup> He went on to note that both the Nationalists and the Communists were intransigent. Further material assistance was not then suggested.

Within a year the attitude of Congress toward China, owing

largely to the efforts of a vigorous minority consisting principally of Republicans, was quite different. Whereas the State Department felt that effective utilization of material assistance was contingent upon internal reform by the Nationalists, the "Nationalist bloc" on the Hill emphasized immediate economic and military aid to Chiang as the surest way of uniting China and forestalling Communism.

Congress in the years after the war exercised independent judgment partly on the basis of its own sources of information and partly on the basis of elements in the executive that did not agree with the President and the Department of State. Members of a House Military Affairs subcommittee toured China during the fall following Marshall's return. They were told by Chiang that his government was in danger of collapse because the United States had failed to provide promised assistance at a time of desperate need.<sup>16</sup> Chiang, contrary to an earlier view expressed to Hurley, announced to the Congressmen that the followers of Mao were thoroughgoing Communists under orders from Moscow. The Foreign Affairs Committee soon indicated that its thinking was independent and, inferentially, better than that of the State Department. A report of Subcommittee No. 5 of the Committee declared, regarding the Chinese Communists, that "the mystery is not, are they really Communists? It is only how the question can be raised by any informed and sincere person."<sup>17</sup>

The State Department found no solution. Ambassador Stuart was thoroughly pessimistic, whatever material aid might be provided, regarding the ability of the Nationalist Government to survive without reforms of a sweeping character. The Communists were gaining steadily in morale and strength.<sup>18</sup>

Meanwhile the United States had continued some material assistance to Chiang after the Japanese surrender. An embargo of less than a year on the shipment of small arms was lifted in May 1947 to permit the sale of surplus equipment and military vessels.<sup>19</sup> Whether sufficient military and economic aid was actually furnished was the subject of heated debate in the United States. General Wedemeyer's report in September 1947 recommended increased economic and

military assistance to China over a five-year period. The report, however, was far from optimistic. Before leaving China the General announced that the "Central Government will have to effect immediately drastic, far-reaching political and economic reforms. Promises will no longer suffice. Performance is absolutely necessary. It should be accepted that military force in itself will not eliminate Communism."<sup>20</sup>

The State Department rejected the General's recommendation for military aid but did continue a program of economic and financial aid. It soon found itself in hot water on Capitol Hill, however, for not publicizing the report at once. Rumors regarding its contents were rife, and the Department was accused of refusing publication because of the recommendation for military aid. The official White Paper later included it and asserted categorically that it had been kept confidential because of the General's recommendation that Manchuria be placed under a United Nations Trusteeship of Five Powers including the Soviet Union. This step, the White Paper asserted, would have been "highly offensive to Chinese susceptibilities as an infringement of Chinese sovereignty."<sup>21</sup> Hindsight suggests that Congressional reactions may have been equally important to the State Department and that an escape from the dilemma should have been sought by other means.

Storm signals were now flying. By the end of 1947, it was clear that a full-blown debate on China could not be avoided in Congress when the Administration presented its formidable European Recovery Program. It cannot be emphasized too frequently that in this period the Administration was primarily concerned with getting the Marshall Plan through Congress and that, until the Czech coup of February 1948, the Plan seemed to have little better than a fifty-fifty chance. Senator Bridges, chairman of the Senate Appropriations Committee, and other Republican leaders indicated that economic aid to thwart Communist intentions in Europe made little sense if active measures were not taken to support the Chinese Nationalists in their fight against Communism. The State Department for the Administration then recommended that \$570,000,000 be allocated to

Chinese economic recovery and development projects, but made no references to military assistance. The executive branch, including the National Advisory Council, was reported to feel that there was little chance of success for any aid program.<sup>22</sup> The proposed economic aid was soon cut by the Republican-controlled Congress.

This hesitancy played into the hands of two groups on Capitol Hill, the "Nationalist bloc" and the "economy bloc." The Administration now came under the fire on the one hand of Senators such as Bridges, Knowland, Wherry, McCarthy, and McCarran, and Representatives Judd and Vorys, who favored a military-aid program for China, and on the other hand, of Representative John Taber, chairman of the House Appropriations Committee, who placed a high premium on lower taxes and reduced government expenditure. "Administration Democrats" had little in the way of Administration policy as ammunition for a counterattack. As a consequence the debate was one-sided and did not clarify such basic issues as whether military aid to Chiang, for example, might alienate other peoples in the Far East long suspicious of Western influence. The advantage remained inevitably with those who carried a vigorous attack.

Other Republican leaders such as Vandenberg and Dulles were already on public record in favor of more active support of the Nationalists. Senator Brewster had indicated earlier that China was a "far more critical area as far as America is concerned" than Greece or Turkey, which were already bolstered by the Truman Doctrine.

Following committee hearings *military* assistance was added to the program of aid to China in spite of the warning of Secretary Marshall before the Foreign Affairs Committee:

I think the tendency to view the matter on the purely military basis is a natural one, but it does not quite meet the situation. The military situation is very heavily involved in the political situation as it relates to the people, and until certain fundamental things are done there, the chances are very slender of helpful action.<sup>23</sup>

The hand of Administration critics on the Hill was now strengthened by evidence of a division of opinion within the executive ranks. General MacArthur was known to be critical of United States policy

in China, and Chairman Eaton, strongly supported by Representative Judd, proposed that the General be invited to appear before the Foreign Affairs Committee. Although the invitation was declined, the General's cabled reply did nothing to hide the fact that there were differences of opinion in the executive family.

Prominent private witnesses, such as retired Major General Claire Chennault and former Ambassador William Bullitt, added their voices in support of the view that military victory for the Nationalists was the primary end to be sought in China. A "China lobby" was later reported to have been active for the same purpose and included at this time the American China Policy Association and such individuals as Alfred Kohlberg and William J. Goodwin.<sup>24</sup>

The House was very firm on the matter of military aid, and reported out a bill which, in addition to \$420,000,000 for economic aid, specifically reserved \$150,000,000 for military supplies. The Senate made a similar division, but assigned \$100,000,000 in a grant to the Nationalist Government "to be used to suit its own necessities and purposes," a device that was admitted by Vandenberg to permit the purchase of military equipment. The compromise that emerged from the Conference Committee authorized in Title IV of the Foreign Assistance Act of 1948<sup>25</sup> \$338,000,000 for one year and \$125,000,000 for "additional aid to China through grants, on such terms as the President may determine."

The House Appropriations Committee under the leadership of Chairman Taber then reduced the amount for economic recovery to \$275,000,000 but left intact the amount authorized for military supplies.

Administration policy was thus altered on two counts: the amount recommended for economic recovery was considerably reduced, and military supplies were made available. These changes fundamentally altered American policy toward the Nationalist Government of China. Were these changes made as the result of a mature estimate that effective use could be made of military equipment as late as 1948? The hearings and floor debates are not altogether reassuring in this respect. The voices of lobbyists rang louder at times than



those of military experts and diplomatic officials. The American public remained uninformed on the basic issues since the debate on the Hill was generally beside the main point.<sup>26</sup> Subsequent failure of the new policy suggests that it was either erroneously or tardily conceived or too late in formulation. In either event, the formulation of policy to meet a highly complex situation was not made easier by the necessity of reconciling the views of branches of government dominated by different political parties. Moreover, with elections in the offing, the temptation was great to use the State Department as a whipping boy in the light of the disaster in China.

Three conclusions emerge from the passage of the China Aid Act. First, a foreign power and a domestic pressure group were quick to turn the checks and balances of government to their advantage. Chiang and the "China lobby" influenced American policy by focusing their attention upon Congress. Whatever the merits of the policy, the maneuverability permitted the President and the Secretary of State was severely circumscribed.

Second, the Administration compounded the difficulties of governmental procedure by failing to present to Congress either a carefully formulated plan for the long range in China or a clear alternative course of action for the short range should the Nationalists fail to reform in the manner indicated as necessary by General Marshall among others. The Administration's view was that a compromise in China at the end of the war was the only feasible action in the light of American public opinion.<sup>27</sup> When this failed, "watchful waiting" was offered as the most prudent course to follow, and a difficult situation was bound to develop, since the initiative passed from the State Department to Congress. Faced with the attitude of Congress, the State Department found itself in the awkward and illogical position of hesitantly backing limited economic aid while at the same time declaring that the corruption of the Nationalists precluded effective use of this aid. The State Department's task was especially difficult because it was faced with a grave economic and political crisis in Europe and, in the United States, with Democratic control of the White House and Republican control of Congress. Republican

support for ERP seemed to require the inclusion of military equipment and training facilities in an expanded program of aid to China.

Third, American policy was vacillating and inconsistent because an Administration viewpoint was seldom fully coördinated or enforced. General MacArthur, whatever his successes, played a pro-consular role in Japan and did not see eye to eye with the Administration on China or in the conduct of the Korean war, as events turned out. Evidently his political support on the Hill was too strong for the Administration to take firm action until he challenged executive authority on the conduct of the Korean war. Yet the division within the executive played into the hands of an active minority on Capitol Hill. American foreign policy was caught on the horns of a dilemma. One wonders if it might have been resolved by more resolute executive leadership.

### *The Korean Phase: 1943-1950*

As in the case of China, the recent Korean policy of the United States cannot be understood without reference to the state of legislative-executive relations since the end of World War II. Among the issues raised are the lack of diplomatic maneuverability permitted the President and the Secretary of State under heavy fire from both Congress and many elements of the press, the role of the United Nations in the conduct of foreign policy, and the coördination of military and foreign policy. Above all, Korea must be considered in its relation to the total foreign-policy commitments of the United States.

By the fall of 1947, the United States was tempted to shed or at least widen the responsibility for the security of Korea. The occupation troops were in an exposed position, and further support was needed if a policy looking to a "free and united" Korea were to be implemented. Although the Soviet Union had agreed at Cairo and Potsdam "that in due course Korea shall become free and independent,"<sup>28</sup> a barrier was erected at the 38th parallel, a line of demarcation hastily selected by the military planners only to regularize the surrender of Japanese troops. Joint occupation policies were not

achieved, and the prospect of a united Korea grew steadily more remote. Yet a Korea wholly or partly under Soviet control would be contrary to American interests.

Other factors influenced the United States to seek relief from its responsibilities in Korea. The Administration was soon to present Congress with urgent demands for economic assistance to Europe. Demobilization, under the pressure of popular demand after the war, had been rapid and disorderly; the United States could ill afford to maintain part of its slender ground forces in an area that was later to be omitted in the "defense perimeter" of the United States in the Pacific.<sup>29</sup>

The dilemma, then, in the period from 1947 to the North Korean attack in 1950, was to prevent Korea from falling under Communist control without the commitment of American troops or the expenditure of vast American treasure. Why not turn to the United Nations? A "free independent" Korea might be established in this way. The needs of American security could be met by bases in Japan, Okinawa, and the Philippines. The prospect of transferring some of the economic burdens and political responsibility to the United Nations was tempting indeed.

Accordingly, in September 1947, Mr. Marshall, then Secretary of State, laid Korea on the doorstep of the United Nations as part of a developing policy of firmness in dealing with the Soviet Union.<sup>30</sup> Two years before, it had been assumed quite generally that the organization was to be an instrument of coöperation and conciliation among the big powers. By 1947, it had become the cockpit of rival coalitions. The Assembly responded to the American suggestions and resolved that Korea should be free and independent, that elections should be held in all of Korea, and that all foreign troops should be withdrawn as soon as possible after the establishment of a national government. A temporary commission was set up to observe these steps "throughout Korea," but was never in fact permitted by the Soviets to cross the 38th parallel.

Following elections in May 1948 that could be held only in the South, the government of the Republic of Korea was established in

August. It was found by the General Assembly the following December to be the only lawful government of Korea. On New Year's Day 1949, it was recognized by the United States. Moral support was thus gained for the United States policy. The Republic of Korea, properly sponsored, now entered the international community. American troops were withdrawn in June 1949, a step concurred in by both the Joint Chiefs of Staff and General MacArthur.

Yet need for both economic aid and internal security forces continued, measures that required a meeting of minds between the President and Congress. Assistance was furnished under the Surplus Property Act, the Military Aid Program, and the Economic Assistance Program. But all was not clear sailing. The House in a gesture of pique at the Administration's China policy refused to grant aid to Korea. This lapse was corrected by the Senate, however, and the House was persuaded to relent.

Meanwhile the Administration appeared to have second thoughts about the security of South Korea. The United Nations Commission, which had been authorized in December 1948 to "lend its good offices to bring about the unification of Korea and the integration of all Korean security forces," reported no success the following July. Instead the Commission found there was "much military posturing" on both sides of the 38th parallel, while prospects for political stability in a united Korea seemed impossible owing to the "world-wide antagonism" between the United States and the Soviet Union. The Commission was then empowered, largely on the prompting of the United States, to observe and report developments that might lead to military conflict.

While Mr. Acheson, in his Washington Press Club address of January 12, 1950, had not included Korea in the "defense perimeter" of the United States, he indicated in the next sentence of his speech that other areas could rely "upon the commitments of the entire civilized world under the Charter of the United Nations, which so far has not proved a weak reed to lean on by people who are determined to protect their independence against outside aggression."<sup>31</sup>

Further steps were taken to define more precisely the support

that the South Koreans might expect from the United States and the United Nations. At the end of 1949 a United States Military Advisory Group was dispatched to develop internal security forces appropriate for Korean needs and capabilities. It was soon to be painfully evident, however, that the South Koreans were not equipped to meet a full-scale attack from the North. Later John Foster Dulles, both a Republican and an adviser to the Department of State, addressed the Korean National Assembly on June 19, 1950. If the South Koreans were attacked, he asserted, they would not stand "alone." Support could be expected from the United Nations backed up by the United States.

When the North Koreans attacked across the 38th parallel on June 25, 1950, however, the Secretary of State was accused on Capitol Hill and in much of the public press of inviting aggression by not including Korea in the "defense perimeter" of the United States. Administration followers in Congress failed to point out either that the Secretary was undoubtedly expressing the view of the President and his military and political advisers represented in the National Security Council or that the inclusion of Korea in an American "defense perimeter" would have been grist to the Communist propaganda mill. Charges of Western imperialism still fall on receptive ears even in those parts of Asia that are not Communist. The Department of State, however, remained almost wholly undefended by Administration followers in Congress. Belaboring the State Department proved useful to Senators and Congressmen standing for election that fall.

Congressional influence on policy was much in evidence after the forces of Communist China entered the Korean struggle to bring a sudden halt to General MacArthur's offensive toward the Yalu River. The Senate, by a unanimous roll-call vote, resolved on January 23, 1951, that it was "the sense of the Senate that the United Nations should immediately declare Communist China an aggressor in Korea" and that "the Communist China Government should not be admitted to membership in the United Nations as the Representative of China." A third proposal, insisting that the United Nations



take all necessary measures including economic blockade and full-scale military action to halt the Chinese Communists, was referred to the Foreign Relations Committee for further study. The House had similarly demanded the finding of "aggression" a few days previously.

While such resolutions are not binding on delegates representing the United States, it was almost inevitable that the United States would press for a finding of an act of aggression by the Chinese. Reluctance among many members of the United Nations, however, was marked. Did the United States wish to widen the scope of conflict in Asia at the expense of Western Europe? India's efforts to effect a "cease-fire" had a strong appeal. Condemning the North Koreans was one thing, in the view of some, but United Nations action against a great power that would normally have been expected to be in a position to veto such action was quite another.

After considerable delay, the General Assembly adopted a United States resolution, 44 to 7 with 9 abstentions, to the effect that the Central People's Government by aiding those who already were committing aggression in Korea had "itself engaged in aggression in Korea." There was considerable evidence that this measure was passed only after it was informally agreed that the United States would not press immediately for further action against China. Instead, an additional measures committee was asked to consider as a matter of urgency further steps to meet the aggression.

Other factors appear to have contributed to the lack of enthusiasm at Lake Success for the American position. Was General MacArthur faithfully carrying out the directives of the United States Government acting as the "unified command" of the United Nations in Korea or was he making his own strategic decisions? The chain of command from the United Nations to the field was new and tenuous. To the Veterans of Foreign Wars the General announced his philosophy of Asian politics. A show of force, he suggested, would restore law and order. Upon order of his Commander in Chief he withdrew his statement but not before its publication in the press. The disastrous winter offensive at least implied

that the General continued in fact to act on the philosophy reflected in his speech rather than on the basis of information forthcoming from Lake Success. The fulfillment of a prophecy by the delegate of India that China would commit troops if United Nations forces crossed the 38th parallel did not add to the General's prestige with the United Nations.

A letter clearly differing with the Administration's foreign policy sent by the Supreme Commander to Mr. Martin, Minority Leader of the House, was the final straw. The General was recalled because he was not in sympathy with the policies of the Administration.<sup>32</sup>

The General, as we have seen, had many admirers on the Hill and in the country at large. Until the Martin letter, his removal as commander in Korea seemed to run the risk of inciting rebellion on Capitol Hill that might have undermined the United States' and United Nations' effort in Korea. A policy of meeting aggression with the force and law of the United Nations was saved in the first place by the victories of courageous troops in the field. Yet the clarification of issues and alternatives that resulted from the MacArthur hearings was of great importance in this respect since it became clear to Americans at home that to "go it alone" in Asia would be a failure of leadership.

A fundamental question in the trying days of the Korean fighting was the quality of American leadership. Second to meeting aggression the United States sought to maintain an unbroken front among the free nations. Yet the constant warfare between Congress and the President and his official family made leadership difficult indeed. Many voices spoke loudly for widely differing courses of action. It was not always clear that the Chief Executive spoke for the United States. Rapid shifts in the policy of the Administration itself did not help matters.

At one time the Secretary of State announced that the United States' support of United Nations' action in Korea under the resolutions of June 25 and June 27 was "solely for the purpose of restoring the Republic of Korea to its status prior to the invasion from the north and of reestablishing the peace broken by that aggression."<sup>33</sup>

After the Inchon landings, however, the United States forgot about the *status quo*. The action in Korea was to be directed toward a solution of the whole Korean problem following the Assembly resolution of 1947 for a free and united Korea. While some powers suggested a buffer zone and others questioned the wisdom of crossing the 38th parallel, General MacArthur ordered a "general assault" and headed for the Yalu. Was this a change of American policy, or faulty coördination in the execution of policy?

At times American leadership smacked of dictation. At times it lacked consistency. Communist propaganda was always ready to exploit any sign of a break among the allies. An effective working relation between the White House and Capitol Hill was the very minimum requirement for the success of American policy in the United Nations to settle the problem of Korea. And that relation was often lacking.

## CHAPTER THIRTEEN

### *Conclusions: General Issues*

*From the many threads* of experience analyzed in the foregoing chapters, a pattern emerges that emphasizes four major conclusions of crucial significance for the security of the United States. First, we have seen that external dangers, which long seemed of only peripheral importance in the life of the nation, are suddenly striking at its very heart and almost overnight have become its first concern. Second, it is apparent that this challenge cannot be met successfully except by the closest teamwork between the executive and the legislature. Third, case after case has demonstrated, however, that under our system of government the executive-legislative relation is the weakest link in our foreign-policy chain. Fourth, fumbling between the two branches, which was pardonable when matters of less crucial importance were involved, can no longer be tolerated if this nation is to survive.

The evidence pointing to the necessity of close, effective legislative-executive relations in foreign affairs is overwhelming. It is obvious that the President cannot pilot the ship of state without Congressional support. Early chapters, moreover, have shown that the authority placed by the Constitution in the Senate is not an adequate measure of the influence of Congress as a whole in foreign affairs. The Senate, it is true, must approve treaties and the appointment of ambassadors, consuls, and other public ministers. The Marshall Plan, however, did not involve a treaty, and the Senate's approval of Marshall Plan officials was only a single, if an important, aspect of the program.

Foreign policy, furthermore, extends far beyond the range of

matters that are the subject of agreements with other nations whether by treaty or by executive agreement. Congress as a whole is constantly shaping foreign policy when it enacts domestic legislation. It is important to remember that, while the enactment of statutes that affect foreign and domestic affairs alike is the joint responsibility of Congress and the President, Congress has the advantage, since by an extraordinary vote it can override a Presidential veto. Congress alone has the power to declare war. The fact that it has never taken this step without being called upon to do so by the President emphasizes the fact that the use of the ultimate instrument of foreign policy is a joint undertaking.

Earlier chapters suggest not only the importance of legislative-executive collaboration, but that when honestly sought by both branches such collaboration can be successfully achieved. The problem then is to strengthen the legislative-executive coupling within the frame of our traditional governmental system. It must be said at the outset, however, that tinkering with the governmental and administrative structure will not do the trick. The problem is fundamentally one of altering basic political attitudes in the United States. It is true, of course, that organizational changes may affect and reflect attitudes, but, more important, such alterations are mere window dressing unless they represent a new orientation of basic thinking behind them.

### *Bipartisanship vs. Partisanship*

As the pressure of world affairs has grown greater, the proper role of partisan politics in foreign policy has been a matter of increasing concern. As noted earlier, nothing so disturbed Cordell Hull as the statement made by Thomas Dewey on August 16, 1944, which threatened to throw the whole United Nations project to the wolves of party conflict. Nor was it mere abstract semanticism when Mr. Hull and Mr. Dewey's emissary, John Foster Dulles, argued for three days whether to describe their joint consultation regarding the United Nations issue as "nonpartisan" or "bipartisan."<sup>1</sup> Because party politics seems on the one hand to be the very lifeblood of



democracy, and because, on the other, such politics is accused of endangering the survival of our democracy, it seems essential that the most careful thought be devoted to this apparent conflict. The role of parties with respect to foreign policy, moreover, cannot be examined without looking at the total American party system.

What are the basic problems? To begin with, there are at least three factors in our system of government that place an Administration more at the mercy of the opposition party than is normal in a parliamentary system such as that of Great Britain. First, the lack of party discipline in this country, the reasons for which have been inventoried in countless other books and need no additional analysis here, makes it all too easy for members of the President's own party to turn against him. To get his program adopted, therefore, he must frequently go hunting for votes in the camp of the enemy. Second, it is possible, two years after a President has been elected, for control of one or both houses to pass entirely out of the hands of the President's own party and into the hands of the opposition. This has happened, in fact, during eighteen of the thirty complete Presidential terms since the definitive establishment of the two-party system in the age of Jackson.<sup>2</sup> It was during a period such as this, from 1946 to 1948, when the doctrine of bipartisanship bloomed most vigorously under the tender care of the late Senator Arthur Vandenberg. Third, the two-thirds treaty rule makes it almost impossible for any Administration to win the Senate's consent to a pact solely through the votes of its own party. The support of some members of the opposition must be secured. These three considerations tend to make every Administration, whether it wants to or not, look for bipartisan support on many issues.

Another problem which may be cited as ancillary justification for bipartisanship rises out of the obvious fact that some party figures believe that their objective of party victory justifies almost any skulduggery. In this unfortunate spirit these narrowly partisan antagonists have used extreme methods against the opposition, usually with scant regard for either the facts or the interests of the nation as a whole. Senator Joe McCarthy's charges against Amba-

sador Jessup and General Marshall as being pro-Communist are notable examples of just such unscrupulous tactics. This is the black side of party politics which some leaders have hoped to modify through bipartisan coöperation.

If it were not for these and other characteristics of our system of government, bipartisanship would be less desirable and less necessary. Where political responsibility is clear and direct, bipartisanship tends merely to distort and blur the picture. It forces compromise between the parties and prevents a clear presentation of alternative policies. But where political responsibility is not clear and the separation of powers constantly threatens paralysis, as under our system of government, one essential means of getting strong legislative support is to resort to bipartisanship. ✓

It should not be forgotten, however, that even now our parties perform certain useful functions that some overenthusiastic salesmen of bipartisanship tend to forget. Political parties are the motive power of modern democratic government. The citizen would tend to lose contact with his government unless the Republicans and the Democrats constantly focused his attention on such matters as price control, taxes, and social security; unless they presented him with some kind of alternative candidates and programs (hazy though the latter may be); unless they ran the elections, and did all of the other work that is required to turn the wheels of a democracy.

Yet our national party organizations are deplorably feeble. This situation makes responsible government almost impossible. The voter is confronted on the national scene not with two disciplined party teams capable of moving in definite and predictable directions but two uncontrolled groups about whom one can only say that their direction after election is quite unpredictable. An Administration is "responsible" when the voter knows what he is going to get in advance, knows that the party is capable of giving it to him, knows whom to blame if he does not get it, and knows that if he is not satisfied he can vote for another party which can give him what he wants.

How then can parties be made more responsible? The first need

is for a change in fundamental political attitudes. Until now the American ideal has been the maverick rather than the party regular. And the vast number and heterogeneity of United States political interests will always make it more difficult to achieve party discipline here than in Britain. Nevertheless we cannot have truly responsible party government unless we constantly strive for greater cohesion and less atomism. The American voter should recognize that party anarchy can no longer be afforded. The national party organizations should be reinforced by giving them greater control over such matters as party funds, platforms, patronage, Congressional committee assignments, and other organizational aspects. And to counterbalance this strengthening of the central machinery, more active public participation should be encouraged to control that machinery.<sup>3</sup>

If national party organizations are strengthened, is bipartisanship in foreign affairs eliminated or endangered? Cordell Hull preferred to speak in terms of a "nonpartisan" rather than a "bipartisan" approach to the United Nations Charter.

I said to Dulles that the word "nonpartisan" rather than "bipartisan" should be used . . . "Bipartisan," I explained, meant that both parties would be involved on a political basis in policy toward the United Nations organization. "Nonpartisan" meant that neither party would be involved in that policy on a political basis.<sup>4</sup>

At first glance Mr. Hull's hope "that neither party would be involved on a political basis" seems as fatuous as expecting politicians to stop making speeches. Yet it is obvious that he did not want the parties to renounce all interest in the Charter, since he was wooing the leadership of both parties to coöperate with him and obviously expected them to use their party authority to influence others to act similarly.

What Mr. Hull did want was to have both parties forget their narrow emotional partisan prejudices and be willing to work together as far as possible to produce a policy that would be satisfactory to both sides. Although some of Mr. Hull's associates, including President Roosevelt, believed at the time that this was too much

to expect, later events proved that the leaders of the two parties and the great majority of the rank and file were prepared to act in that spirit on that particular issue. It seems clear, therefore, that strong parties would not preclude bipartisanship. Rather if such parties chose to work along bipartisan lines on some issues they would at least have the discipline to enforce their commitments.

This experience provides a clue to what can be expected in the way of interparty coöperation. Unfortunately, neither the word "nonpartisan" nor "bipartisan" is quite right for our purposes. "Nonpartisan" implies that party organizations should not be involved at all. "Bipartisan" may suggest that foreign policy is not lifted clear of narrowly partisan politics. The second, however, implies the positive support of both parties. What we need is the promotion of a new emphasis in American political thinking. It will probably not come about through any major revision in our basic form of government in the near future because the present mood of the American people is not receptive to such a revision. But much can be done within the framework we now have. The fundamental problem is not one of tinkering with gadgets but rather of recasting basic political attitudes and philosophies.

Party members should realize that the present critical state of the world requires that no one rock the boat irresponsibly but that each oarsman pull his weight carefully and conscientiously. Thus party members should adopt a frame of mind conducive to coöperating across party lines on particular issues if an honest, independent, and objective examination of the facts convinces them that such coöperation is warranted. Because of the chasm that divides our two branches of government and because of our inadequate party system, bipartisan coöperation is necessary on most major issues of foreign policy.

It might appear at first glance that the intertwining of foreign and domestic affairs would rule out bipartisanship in foreign policy. If domestic issues are characterized by party politics, how then can external matters be free of partisanship? The answer is that when critical issues are at stake, considerations of national security tend



to compel bipartisanship. This philosophy does not require the parties to abdicate all interest and responsibility in the foreign-affairs field. They should continue to be interested in all such issues and may, if an honest appraisal of the facts so warrants, decide to participate in bipartisan agreements. This does not stifle criticism. It merely discourages irresponsible criticism. Responsible criticism will always be useful both in arriving at coöperative policies and in implementing them. Unfortunately, much Congressional opposition tends to be irresponsible because the "outs" are not faced with the possibility of having to take the helm on short notice as they would be, for example, in Great Britain.

Bipartisanship need not mean that the opposition party is failing to perform its duty.<sup>5</sup> Bipartisanship is most likely to result if the nation's safety is at stake and if at the same time there is a course of action on which the majority of reasonable men can agree. These conditions are usually met in wartime when people as a whole close ranks behind the administration, whatever party is in power. These conditions may be approximated when the nation is not at war but is obviously in peril. This was the situation in 1948, when Soviet power threatened to erupt into Western Europe. The Czech coup and the Berlin blockade were important factors in winning firm interparty coöperation. The Marshall Plan, the Atlantic Pact, and the Military Assistance Program were all bipartisan policies to meet the threat. These policies were no indication whatever that the opposition party had shirked its responsibility of careful scrutiny and constructive criticism. They reflected instead the wisdom of Democratic and Republican leaders alike. Indeed they were in part the result of the opposition party's criticism. Patriotic leaders of both parties could take pride in authorship.

A national emergency alone, however, is no guarantee of bipartisanship. There must also be a course of action that is open to the United States and is so obviously the wisest choice that, through the force of public opinion, it exacts the support of both parties. In the China debacle after 1947, these conditions did not exist. There was an emergency, but it seemed impossible to reconcile the views



of the Administration with those of the "Asia Firsters." A complicating factor was that any course of action had only a minimum chance of success, while disaster provided a maximum opportunity for political opportunists. Beyond these conditions, recent history suggests that bipartisanship requires a readiness on both sides to collaborate, the fullest possible sharing of information in frank consultation, and the sharing of credit when policies are successful. Above all, bipartisanship is impossible if the executive branch is disunited on foreign affairs. This was one of Secretary of State Byrnes's most compelling arguments in his protest to the President against the Madison Square Garden Speech of Secretary of Commerce Henry Wallace on September 12, 1946.<sup>6</sup>

Bipartisanship need not weaken the executive. In fact most Presidents have been compelled under our form of government to resort to bipartisanship ultimately in order to achieve their objectives, especially in foreign affairs. In the long run, the executive is stronger with bipartisanship than without it. Since the President is charged with the principal responsibility for the conduct of foreign affairs, he must take the initiative in encouraging bipartisanship. Success or failure will depend ultimately, of course, on both parties, but the executive must indicate its readiness to accept a partnership. Senator Vandenberg could not have played so important a role in establishing the North Atlantic Treaty Organization had not the Administration been ready to meet him half way.

There is of course the danger of the President's being forced to accept the lowest common denominator. But bipartisan compromises tend rather to seek a level midway between the high and the low extremes. If the points of view of the two parties are too far apart, however, compromise may not be possible.

Obviously it cannot be assumed that all men will necessarily agree on what "responsible" or "irresponsible" actions are in any particular instance. All that can be expected is that party members act in what they sincerely believe to be a responsible manner. This philosophy is a lofty goal but it is not beyond reach. It is nothing more nor less than the credo which Senator Arthur Vandenberg adopted when

he became convinced that the United States should play a positive role in world affairs. The coöperative spirit is not utopian. It is entirely practical. What is more important, it is essential if the democratic way of life is to survive. Hamilton Fish Armstrong, editor of *Foreign Affairs*, has put it this way:

[The people] have a right . . . to ask their leaders to rule out partisan considerations in trying to reach agreement on basic national objectives. These admittedly are not easy to define in general terms, but are not hard to recognize in practice . . . Any device promising to facilitate understanding between the responsible representatives of the two parties should be given a trial. But it is the spirit in which the party leaders determine to coöperate rather than the precise form of the mechanism available which will determine the outcome.<sup>7</sup>

### *A Bridge Between Two Branches*

Because of our system of separation of powers, the executive and the legislative branches are not harnessed so that they are encouraged to pull together. Rather the Constitution tempts them to engage in a perennial tug of war. One writer has said:

The great weapon of free government has misfired. Separation of powers between President and Congress has proved to be less productive of freedom than of conflict, patronage, inefficiency, and irresponsibility. To anyone concerned with the conduct of foreign policy, the fruits of the system are unusually bitter.<sup>8</sup>

No fact emerges more clearly from the case studies presented above than that the executive-legislative relation is the Achilles' heel of United States foreign policy. We have seen that the sensibilities of men at both ends of Pennsylvania Avenue are constantly being irritated by real or imagined slights on the part of one branch or the other, and they are goaded into displaying unfortunately stubborn tendencies attributable very largely to the separation of powers. This conflict creates friction even within the parties. During the UNRRA negotiations it was Senator Connally, a member of the Administration party, who was most upset by what he considered to be an executive affront to the Senate, and it was Senator Vandenberg, a member of the opposition party, who helped conciliate the

differences between Secretary of State Hull and Senator Connally.

What can be done to bridge this chasm? The most extreme suggestions seem to take as a model one aspect or another of the British parliamentary form of government. One proposal envisages a joint executive-legislative cabinet.<sup>9</sup> This idea seems highly unrealistic if it anticipates a thorough overhauling of our government in the image of the English model, since it is extremely doubtful whether sufficient support could ever be generated for such a constitutional revolution. And without such a thorough revision, an executive-legislative cabinet could not hope to produce the results of the British system. Without basic constitutional changes many awkward questions would arise. How would the members of such a cabinet be selected?<sup>10</sup> To whom would they feel responsible, the President or Congress? How would the President enforce discipline in his "official family," which might not, in fact, be a family? In 1946, Mr. Wallace spoke out of turn on foreign affairs and was removed from office. This contingency might be more frequent in the case of a joint cabinet over which the President would be likely to have less control than he has today. This proposal seems to contradict the very logic of government under the separation of powers. Another argument against the joint cabinet is that it does not strike at the heart of one of our principal problems. The coördination of policy in the United States is difficult not only because Congressmen tend to be against the President but also because the various committees of Congress often tend to work against each other. It will do little good to establish a joint cabinet unless Congress establishes internal discipline of its own.<sup>11</sup> This problem will be considered below.

A close cousin of this proposal is that in the event of a stalemate the President should be authorized to dissolve the House of Representatives at his discretion in order to test public opinion in one general election during his term of office. The threat of dissolution by the President, it is argued, would be an important factor in strengthening party discipline.<sup>12</sup> This would also be a major alteration of our political system, requiring a constitutional amendment

that is not likely to win significant backing. While it would have the advantage of strengthening the hand of the President in one respect, it would not necessarily produce the party discipline or the tradition of executive responsibility to the legislature that are also integral characteristics of the British system. To borrow one feature without others would produce a hybrid that might create more problems than it would solve.

There is also the plan to empower Congress to oust the chief executive by a vote of lack of confidence and to appoint a new one. Unfortunately this proposal, which approaches the French more than the British system, is apt to produce confusion rather than collaboration. It would take control from the executive and give it to the legislature, which is far less capable of exercising positive and decisive leadership. As one commentator has put it:

It is no accident that this type of cabinet government is synonymous with governmental instability and impotence. It puts a premium on parliamentary intrigue, on maneuver by legislative blocs, on balance-of-power bargaining.<sup>13</sup>

Another proposal is to authorize cabinet officers to appear on the floor of Congress to explain their policies and to answer relevant questions.<sup>14</sup> The chief criticisms of this idea are that it does not provide as satisfactory an opportunity for informal, thorough, and, if necessary, off-the-record inquiries as do Congressional hearings; that it would invite the facile and witty rather than the searching and profound reply; that the glare of klieg-light publicity would generate more heat than light; and that it would be taken by the opposition as an opportunity to attack the executive. The proposal does, however, have the advantage of providing an opportunity for the delivery of an important statement of policy to all the members of Congress rather than to the members of only a few of the committees. Thus the Administration has on a few occasions taken advantage of something like this form of presentation. Mr. Acheson reported on May 31, 1950, regarding the European situation, to both houses of Congress assembled in the auditorium of the Library of Congress, and Mr. Hull made a similar report on his return from

the Moscow Conference in 1943. The latter venture was successful in that the report was well received and served to strengthen legislative support for foreign policy. The former was less successful largely because critics of the Administration's China policy were not mollified by successes in Europe. While this device should be developed as fully as seems practical, it seems unlikely that it will produce any startling results in view of the fundamentally antagonistic posture of the two branches. Certainly it will never replace the peculiar advantages of the present committee hearings.

The experience gained during the United Nations Charter negotiations suggests another possible innovation: the organization of an executive-legislative advisory committee on foreign policy similar to Secretary Hull's temporary Advisory Committee on Postwar Foreign Policy. This would not be a full-fledged executive-legislative cabinet. It would include leading figures in only the foreign-affairs sphere and would not have the power to bind its members but would be wholly advisory. Its broad objective would be to facilitate the exchange of legislative and executive views on fundamental issues of external policy and, whenever possible, to reach a general "sense of the meeting" on such problems. These discussions, as in the Advisory Committee on Postwar Foreign Policy, should be frank, informal, and off the record, without any attempt to force formal votes.

Because of the factors already mentioned, which have compelled most Presidents to depend to a large extent on the votes of members of the opposition party, this committee should be bipartisan in composition. This is appropriate since the body would deal with only the most basic matters, on which bipartisanship is not only desirable but usually necessary. It must be recognized, of course, that the problems involved in achieving coordination within both the executive and the legislative branches will make it difficult to mobilize strong support for the views of this group, but it might well be a step in the right direction.

While the membership of such a committee should remain flexible, subject to the discretion of the President, its core should consist



of the President when and if he desires to participate, the Secretaries of State and Defense, the majority and minority leaders in both houses, and the chairmen and ranking minority members of the Senate Committees on Foreign Relations and Armed Services and the House Committees on Foreign Affairs and Armed Services. On many matters, of course, it would be important to include also the leadership of the Appropriations Committees. Clearly the President would be well advised to confer with Congressional leaders on the composition of this group. It is true, of course, that in some instances members of Congress, and particularly members of the opposition party, may not wish to be so closely identified with the Administration. For this reason, among others, informality should be the keynote.

It has been said that such a body might tie the President's hands by forcing him to consult with Congressional leaders with whom he might not wish to deal and to disclose information to them that he might not wish to disclose. In reply to this objection it can be said that the President will normally need the support of both the chairmen and ranking minority members of the foreign-policy committees on broad fundamental issues. He cannot therefore afford to omit them from any regular discussions he may have with Congressional leaders. To select these particular Congressional leaders, moreover, who are generally recognized by their colleagues as men of high rank in the legislative hierarchy, will tend to eliminate the ill will that often is generated when specific legislators are "tapped" to enjoy Administration favor.

It can also be said that the psychological effect of holding regular meetings with these leading Congressmen, symbolizing the President's willingness to cooperate with Congress not only occasionally but constantly, and with not only a few Congressmen of one party but with all of the leading figures of both parties, may well outweigh any disadvantages of such a plan. It should be an improvement over the desperate last-minute bipartisan consultation that is often necessary to enact legislation involving foreign affairs.

It is true, of course, that the men who serve as chairmen and rank-

ing minority members may not always be the most effective men with whom the President might deal. At such times he may always consult with other Congressmen outside the meetings of the joint committee. The problem of consultation, for example, is more difficult when the leaders of the opposition party are not members of the foreign-policy committees. Without consulting Senators Taft, Wherry, and Milliken, for example, the Administration in 1950-51 could not be sure of the Republican position on a given issue in foreign policy. Such figures could be invited to meet with the committee as the need arose. These tactics might annoy the chairmen and minority members but probably not as much as if they themselves were not being consulted at the same time through the channel of the joint committee. The establishment of such a committee must not and need not impair the development of informal relations such as the one that grew up between Secretary Stimson and Senator Borah. Such tactics might reduce the usefulness of the joint committee, but this is not as serious as the utter absence of any such symbol of official executive-legislative coöperation. It is also probable that most chairmen and ranking minority members will be able to work with the President. Should the activities of some member of the committee core make it impossible to conduct meetings in the proper spirit, the executive would always be free as a last resort to insist upon an adjournment *sine die*. As for the question of security of information, it should be remembered that the President and his representatives on the joint committee would have the privilege of telling as little or as much as they wished.

Regarding the impact of such a body upon the present cabinet, there would be little reason for conflict. Such a committee would merely provide an opportunity for certain members of the Cabinet who are especially concerned with foreign policy, together with other executive-branch officers not on the Cabinet such as the heads of commissions and agencies, to meet with certain Congressional figures who are also intimately concerned with our external policy.

The effectiveness of such a joint committee would also be enhanced by the establishment of an able secretariat, whose primary

task would be to define and clarify fundamental issues and help to resolve as many of them as possible without referring them to a formal meeting of the committee. Such a staff could also help to avoid duplication of effort by encouraging the coördination of Congressional and executive staff work, although this could be done only to the extent that the representatives of the two branches on the committee gradually gained confidence in each other's staffs.

The fundamental question that lies at the root of this whole proposal is whether the processes of coördination and coöperation between the two branches can be facilitated by the use of joint consultative procedures on a continuing basis similar to those that have been successfully utilized in the past on an *ad hoc* basis as in the case of the United Nations Charter negotiations. To increase the sense of mutual responsibility between the branches—a responsibility anticipated by the framers of our Constitution but lost, to a large extent, in practice—an organized periodic exchange of views would undoubtedly be useful. It is important to deëmphasize separatist symbols and to emphasize unifying symbols.

### *Treaty Trap*

Many major United States international commitments must still run the gantlet of the Senate's two-thirds majority treaty procedure. Thus one-third plus one of the Senators present, sometimes representing less than 3 per cent of the American electorate, can block all measures that are in any way antagonistic to their particular interests. Many authorities feel that improved coöperation between the President and Congress in foreign affairs is hopeless so long as the Senate retains its control over treaties by the two-thirds rule.

What are the fundamental issues involved in this problem? One argument in defense of the two-thirds rule is that the provision was conceived as an integral part of our constitutional edifice. But this is scarcely an adequate defense, because the conditions that gave rise to the rule have changed so radically since its formulation. The now popularly elected Senate is scarcely the hand-picked elite described by John Jay as uniquely equipped to advise the President

on foreign questions. The Southern states no longer tremble at the thought of a treaty that would close the Mississippi to their commerce nor do the New England states now fear that the Administration will sign away their fishing rights. On the other hand, the smaller states in general and the sparsely settled agricultural states—the “acreage” states—in particular still look upon the Senate as their peculiar shield and defender. But it is doubtful whether this factor should be allowed to frustrate the will of the great majority of the people in this country.

It has also been said by the Senate's friends that in actual practice the two-thirds rule has saved the nation from dangerous pitfalls. There is no evidence, however, that this rule has ever prevented any mistake that would not also have been stopped had the simple majority rule governed the decision, and the latter seems far more democratic. There is ample evidence that the two-thirds rule has sabotaged treaties which an overwhelming majority of the public felt were in the best interests of the United States.

Then there is the more persuasive view that the two-thirds rule is particularly appropriate for matters which may require great sacrifices on the part of the United States and which therefore should not be undertaken without the support of an overwhelming majority of the American people.<sup>15</sup> It is difficult to believe, however, that it is necessary to require a vote for treaties that is any larger than the simple majorities that launched the European Recovery Program and the rearmament program, projects also demanding extraordinary sacrifices. It can be argued also that continuity of foreign policy and the confidence of the free world in United States leadership require more than ordinary majorities in support of major policies. This is a compelling argument. The answer, however, need not necessarily be the retention of the present treaty procedure. Rather, administrations, as a general rule, would be wise to put forward major foreign commitments such as the North Atlantic Treaty only when careful teamwork with Congressional leaders showed that very substantial support was forthcoming on Capitol Hill.

The most serious charge that is leveled against the two-thirds rule

is that it is undemocratic. First, there is the composition of the Senate itself, which is generally recognized as being far less democratic than that of the House of Representatives. The scales are weighted heavily on the side of the smaller states, largely the rural-agricultural interests as opposed to the urban-industrial. Second, there is the undemocratic character of the size of the majority required, which allows a relatively small minority to block all action. It is ironic that "most of the admirable policies contained in treaties defeated by the Senate as a result of the two-thirds rule have been supported either by a majority of the Senate or by a majority of both the Senate and the House of Representatives."<sup>16</sup> So restrictive is the present procedure that it took two bloody World Wars before the isolationist minority would even consent to allow the United States to join an alliance as weak as the United Nations.

Another major objection to the two-thirds rule is that Presidents are sometimes tempted to by-pass the Senate rather than to elicit senatorial support for foreign policies. The wide use of executive agreements has risen directly out of this situation.

Moreover there is the serious prenatal effect of the two-thirds rule; frequently it kills treaties before they are born by discouraging Presidents from even attempting to submit them to the Senate.

Finally, as already mentioned in the discussion of bipartisanship, the two-thirds provision makes it well-nigh impossible for a President to win approval of his treaties without courting additional votes from the opposition.

If all of these witnesses against the two-thirds rule cry for some kind of revision, what direction should it take? The "realists" insist that any attempt to alter the two-thirds rule by constitutional amendment is visionary. Since the usual trail that such an amendment must follow passes directly through the Senate, it is unlikely, in view of that body's notorious sensitivity regarding its prerogatives, that the proposal would ever emerge alive. The realists also claim that such a frontal attack would arouse so much Congressional ire that it would probably cause more damage than it would be worth. The Senate has weapons other than its treaty power which it can use



with deadly effect. Finally, because the President has in his armory the supplementary instrument of the executive agreement, which he can sometimes resort to if necessary, a constitutional amendment is not only impractical but unnecessary. To those who believe that the Congress should always be consulted regardless of what device is used, this school of thought replies that the executive agreement supported by a joint Congressional resolution is sufficient to satisfy Congress and is more democratic than the present procedure.

It is true that increasing use has been made of executive agreements to implement policies authorized in advance by Congress.<sup>17</sup> The procedure specified in the trade-agreement acts has already been described. Congress empowered the President to enter into executive agreements with other nations to raise or lower tariffs on a reciprocal basis within limits specified by law. Similarly, in the Lend-Lease Act of March 1941, Congress empowered the President to enter into agreements with foreign countries fighting the Axis so that American funds would be available for the purchase of necessary military supplies. Executive agreements with thirty-nine countries were subsequently negotiated to carry out the provisions of the Act. In this case, it was obvious that the necessity for speed and secrecy made the negotiation and approval of thirty-nine separate treaties unwise. The United States, as we have seen, participated in UNRRA by executive agreement in conjunction with joint action of both Houses of Congress. Thus the normal legislative process was used in place of the treaty-making procedure.

Similar procedure has been used on other important occasions. Texas and Hawaii were annexed by executive agreements that followed joint Congressional resolutions. Executive agreements were negotiated under the Economic Coöperation Act of 1948 to implement the Marshall Plan. In this way European states, in return for American assistance, agreed to use their joint efforts to effect economic recovery, to help the United States to stockpile strategic material, and to establish, in proportion to the aid received, local currency accounts to be used in accordance with agreements reached with ECA officials.

This procedure stands in contrast to executive agreements made on the basis of presidential authority alone. The latter are made generally under the President's authority as Commander in Chief or under his general foreign relations power. As Commander in Chief, for example, Presidents have made joint military plans with allies both in war and in peace. Under this authority, armistice and surrender agreements have been concluded with other states. During World War II the United States entered into several agreements with our allies for the successful conduct of the war. The Atlantic Charter, the Teheran Declaration, and the Yalta agreements are examples. After the war the Potsdam Proclamation and the Potsdam Agreement prepared for the Japanese surrender and the German occupation, respectively. Other agreements already mentioned, such as the Rush-Bagot Agreement of 1817 and the Boxer Rebellion Protocol of 1900, also fall in this category of executive agreement under presidential authority alone.

Several important diplomatic agreements relating to the Far East have been described in an earlier chapter. These were entered into under the President's foreign-affairs authority and were not supported by Congressional action. Some of these agreements have remained unknown to Congress and the American people for a number of years. It is true that in war military agreements and sometimes political arrangements require such secrecy. If carried too far, however, secret diplomacy has its drawbacks. [It has been argued in an earlier chapter, for example, that one result of secret presidential diplomacy in the Far East was a lack of Congressional and public understanding of the issues at stake there.] Military strength was allowed to lag dangerously behind foreign-policy needs. Wider Congressional and public debate might have helped to bring military strength and foreign commitments more into line. The extent of the President's power, moreover, to commit the United States by executive agreement, without prior or subsequent approval by Congress or the Senate, has not been fully determined. There are many reasons, in short, why Congress as a whole should be associated with important foreign policies. The present treaty

procedure, however, involves only the Senate. Yet treaties increasingly require House action for their implementation. The Atlantic Pact is a good example. It was of little value without the Military Assistance Program.

The problem then resolves itself into the question whether a constitutional amendment is really necessary. The answer is that a modification of present procedure is at least highly desirable, and constitutional amendment should be sought if possible. Executive agreements backed by Congressional resolutions cannot be counted upon as a stand-by procedure when treaties fail. First, even if it is possible to use the executive agreement occasionally to compensate for the two-thirds rule, the Senate still holds sufficient reserve powers that it may, if it so desires, compel the executive to submit to the two-thirds treaty procedure. Secretary Hull recognized this fact when, under senatorial pressure, he agreed that United States participation in the United Nations should be provided for by treaty while participation in the specialized agencies should be provided for by executive agreements. Ironically enough, therefore, the executive may generally use the executive agreement device only on sufferance of the Senate. Of course the executive agreement is still an important escape hatch but not as free a one as many commentators have implied.

Second, it can be said here, as it was said above, that to allow the two-thirds treaty barrier to stand encourages the executive to by-pass the Congress as much as possible. Yet, executive agreements without Congressional sanction should be used sparingly—on routine matters or when security considerations require secrecy. An executive agreement alone is a rather weak reed on which to place the full weight of our government's international commitments.

It seems wise, therefore, to amend the Constitution by replacing the two-thirds rule with a provision authorizing Congressional approval of treaties by joint resolutions. This appears to be the most reasonable of the proposals that call for constitutional amendment. It would rid us of the admittedly undemocratic device of the two-thirds rule. Yet it would recognize the fact that under our Constitu-

tion the President and Congress as a whole must pull together if progress is to be made in foreign affairs. It would open the approval process to the House of Representatives, which has in recent decades certainly earned this recognition of its ever-increasing importance in the foreign-affairs sphere. It would reflect the fact that treaties no longer are preëminent in shaping foreign policy. A military budget, for example, may be just as important. It also leaves the executive agreement to be used in appropriate instances, preferably with blanket Congressional approval either before or after negotiation of the agreements. The trade-agreement program is a good example.

The principal objection to this approach is of course that it seems unrealistic in view of the current Senatorial mood. Yet Congress has been persuaded before to accept certain reforms, such as civil-service legislation, which robbed it of traditional prerogatives. Public opinion might change the Senate's views on the treaty procedure. It is not entirely unrealistic therefore to set one's sights high in spite of the formidable obstacles that stand in the way.

If sufficient popular sentiment cannot be generated to amend the Constitution, however, there may be no need for despair. It can be argued, for example, that proper and effective teamwork between the President and the Senate and more particularly between the State Department and the Foreign Relations Committee obviates the need for a constitutional amendment. On the record, all the important foreign-policy decisions in the Senate since the approval of the United Nations Charter in 1945 through the program of aid to Greece and Turkey in 1947 and the Mutual Security Act of 1951 have been taken by substantial majorities. It can be argued further that the two-thirds rule provides an important incentive for the executive to lay its case convincingly before the Senate.

Yet the two-thirds rule will always be a potential hazard as long as it remains. This seems unfortunate, since many of the reasons for its inclusion in the Constitution have long since disappeared. It is a weapon that may at any time be used by a minority of willful men to thwart considered executive policies that may be favored

by the majority of the American people and even Congress itself. The substitution of simple majority approval of both Houses of Congress for the Senate two-thirds rule would not alter in any fundamental way the theory of American government. The principle of legislative checks and balances under the separation of powers would remain. Yet the possibility of Senate minority control over important foreign policies would be greatly reduced.



## CHAPTER FOURTEEN

# *Conclusions: Executive and Legislature*

### EXECUTIVE BRANCH

*In girding itself* to work with Congress in the field of foreign affairs, the executive branch is beset with difficulties in many critical respects. External problems have become the President's greatest headache and greediest consumer of appropriations. Yet in dealing with Congress on these crucial matters he finds himself at a far greater disadvantage than on domestic questions.

Because other nations are constantly involved, it is more difficult to give Congress all the information that it feels it should have in order to understand the programs that it is asked to support. Nor does the executive often find any large pressure groups that can give him strong backing on foreign-affairs questions. Yet his efforts to build public support constantly arouse resentment in Congress. Nothing is so quickly cut in the appropriations process as a State Department information program. The legislature, always tempted to challenge presidential authority, seldom need fear offending strong domestic interests when it refuses to pass legislation whose direct beneficiaries are foreign rather than domestic groups. Finally, the President finds it difficult to keep his team of departments and agencies all going in the same direction at approximately the same pace so as to present a united front to Congress. All of these difficulties become apparent as one examines the parts of the executive

machinery that are most directly involved in executive-legislative relations regarding foreign affairs.

### *The President*

In spite of many conflicting pressures within the executive hierarchy, the President remains the one person ultimately responsible for the administration of foreign as well as domestic affairs. Yet it is obvious to anyone who glances at the jumble of departments and agencies heaped below him that he needs extraordinary assistance to be able to hold the uneasy conglomeration together. It is also apparent that in spite of a long series of reorganizations he still does not have adequate coordinating assistance. This situation inevitably affects the executive policy recommendations that are presented to Congress.

According to the Hoover Commission, there are seventy-four executive departments and agencies, approximately forty-six of which are concerned with some aspect of external affairs. Almost all of these organizations are theoretically entitled to have direct access to the President. And these are only a few of the public and private figures who are constantly knocking on the White House door. It seems obvious, moreover, that as the executive pyramid grows broader at the base with the constant assumption of new functions, extra layers must be added so that the ratio of supervisors to supervised will remain manageable and no single layer, including the top, will be overwhelmed.

Yet the whole history of the executive branch has been that of an increasing lag between the expanding base and the understaffed pinnacle. The heads of most agencies are still authorized to report directly to the President, and yet the burgeoning number of these officers makes it manifestly impossible for the President to give them adequate attention. There is a need for some kind of consolidation. The time is past when everyone can have a white telephone on his desk with a direct line to the President.

It has been suggested that consolidation might follow the pattern established by the National Security Act Amendment of 1949, which

brought together the three military departments under the roof of the Department of Defense. Now only the Secretary of Defense has cabinet status and the three "service" secretaries are clearly subordinate. Similarly, various foreign-affairs activities might be grouped together under a new executive Department of Foreign Affairs. Three subcabinet departments might be established as follows: a Department of Foreign Economic Affairs, incorporating the non-military operations of the present Mutual Security Agency, the Technical Coöperation Administration, and the Institute of Inter-American Affairs (the last two agencies deal with technical assistance programs); a Department of Overseas Information, including the Voice of America and cultural-relations programs; and a Department of Diplomatic and Consular Affairs.

In this way important foreign-affairs operations would be the responsibility of three departments of subcabinet status under the policy direction of the Secretary of Foreign Affairs. The major responsibility for policy planning would be his, although the subdepartments would share in the formulation of policy. The administration of overseas programs would be the responsibility of the secretaries in charge of the operating subdepartments. These arrangements have as their goal the proper coördination of foreign economic policy with general foreign policy. A central position would be maintained for the department responsible for the formulation of over-all foreign policy, since the establishment of separate foreign operating units such as the former Economic Coöperation Administration and the existing Mutual Security Agency would be avoided. Important overseas operations might be satisfactorily co-ordinated and given the necessary policy guidance.<sup>1</sup>

There would remain, it is true, the problem of coördinating military-assistance programs with other overseas programs. Since the administration of an arms aid program is a technical military matter, however, the Defense Department should be in charge of it. The National Security Council provides a satisfactory place for the coördination of foreign policy and military policy at the Cabinet level. But coördination must be a constant process at lower levels be-

tween these departments, since military strength is a factor that must always be considered in the formulation of foreign policy.

Similar functional groupings might be possible among those departments more concerned with domestic matters. These developments might make the Cabinet more useful as a coördinating agency. If the many existing departments and agencies could be integrated in this manner, a Cabinet comprised of the new "super secretaries" might then be a very effective top policy-coördinating body. Members of such a group would include among others the Director of the Office of Defense Mobilization, the Secretaries of Defense, Foreign Affairs, and the Treasury, the Budget Director, and possibly a Presidential chief of staff. The work of these agencies and even others must be integrated if major policies are to be properly formulated and carried out. Also required is a growing sense of "cabinet solidarity" among the most important cabinet officers, a condition of affairs often conspicuous by its absence in the United States.

This group would have a broader responsibility than that of the National Security Council, which seeks principally to direct military and foreign policy along parallel paths. Its membership would also be far more comprehensive than the present Cabinet. A "super Cabinet" would seek the integration of all the elements, foreign and domestic, that make up the major national policies. Such matters as civil defense, economic mobilization, and foreign economic and military aid would be considered as elements of an integrated whole. Legislative-executive relations would be improved because the executive could present a more united front to the legislature. The executive would thus be better able to present Congress with carefully coördinated policies for legislative sanction.

Congress should also exercise the greatest self-restraint in prescribing the organization of the executive and should accept the President's judgment on such matters, since legislative intervention cannot prevent the President from flouting the Congressional will if he feels strongly enough and it merely tends to make the executive branch unnecessarily rigid. It can be argued, for example, that Con-

gress reduced the usefulness of Mr. Harriman in the Executive Office by prescribing his duties so closely in the Mutual Security Act of 1951. Emergencies constantly arise and require that Presidents use their most trusted trouble shooters in any manner that seems most useful.

There is another problem involving the Presidency that influences the conduct of foreign affairs. At present, a state's electoral vote goes entirely one way or another in a presidential election. In this situation, foreign affairs can be placed at the very center of the struggle to win a key state's votes. A constitutional amendment that would divide the electoral vote in proportion to the popular vote might do much to remedy the situation. Parties might feel less obliged to make reckless promises to minority groups in such states as New York, Illinois, or California, which now have an exaggerated importance owing to their large electoral vote. It would help to set special interests in the wider frame of the national interest. Such a plan has already been put forward by Senator Lodge and corresponds closely to a study made by the Brookings Institution. Known as the Lodge Amendment, this plan was approved by both the Senate and the House Judiciary Committees of the Eightieth Congress.<sup>2</sup>

### *Executive Office of the President*

The Executive Office of the President is an important though far from adequate means of assisting the chief executive to direct the work of his department and agency heads. One of the major difficulties that confront the President in organizing his Executive Office is the perennial conflict between specialization and generalization. Whenever two or more agencies collide, the temptation is to create a new coördinator and perch him in the lofty nest of the Executive Office. The obvious danger of course is that if this tendency were allowed to go unchecked the executive heights would become as populous as the lowlands. Primary emphasis has been placed, therefore, on keeping members of the President's staff generalists rather than specialists so that they will see the executive



world from as total a point of view as their chief does and be able to accept a wide variety of assignments according to the pressures of the moment.

Another difficulty is that as various new elements have been added from time to time to the Executive Office, the task of coördinating the coördinators has become a major concern. To deal with this problem, it has been suggested by some authorities that a chief of staff be created. Thus far, however, the idea has not been adopted, largely because of the fear that such a central figure might rival the heads of agencies and even the President himself. But this alarm seems exaggerated, since the chief of staff would have no direct line responsibilities outside the Executive Office, would be wholly dependent on the confidence of the President, and would have no authority to interfere with the access of Cabinet officers to the President. At the same time, he could provide more positive leadership in the work of the Executive Office than the President can now furnish; he could be of great assistance in guiding and coördinating interdepartmental negotiations; and he would generally ease the burden of the chief executive.<sup>3</sup> His effectiveness would be even greater if he were supported by an integrated executive secretariat that would service all interdepartmental committees.

The need for a chief of staff arises from the fact that two important functions affecting the conduct of foreign policy must sometimes be performed in the Executive Office. First, jurisdictional conflicts between departments, State and Defense, for example, must be reconciled. Normally, such disputes will be resolved at lower levels, but when several agencies are heavily involved in foreign policy, a few conflicts are bound to require Presidential umpiring. The Executive Office must keep track of such problems, and, if necessary, help the President resolve them. Second, the Executive Office is the final point where the President may obtain help in coördinating foreign with domestic policy. A chief of staff, in short, could assist the President in examining problems from every aspect. Both functions are important in establishing satisfactory relations with Congress.

Mr. Harriman as Special Assistant to the President (Harriman Office) was in a position to help in these tasks. His office was a notable compromise between generalization and specialization. Its jurisdiction was not as restricted as that of the Department of State, but it was more limited than that of other units in the Executive Office, since it specialized in the foreign-affairs sphere. Because of the generally acknowledged ability and experience of Mr. Harriman and his small staff, because of his close relation with the President and the Secretaries of State and Defense, and because there was great need for skilled mediation in the name of the President regarding foreign policy questions, the establishment of the office seemed a welcome innovation, to be encouraged and supported. Now Mr. Harriman has been appointed by the President to be Director for Mutual Security in the Executive Office. According to the Mutual Security Act, the Director must limit his activities to the supervision and direction of military, economic, and technical assistance programs. In fact, however, Mr. Harriman's role appears to be little changed. Much of his authority has been delegated. Coördination among departments in the administration of foreign aid is largely accomplished by a Mutual Assistance Advisory Committee not prescribed in the law and resembling very closely the International Security Affairs Committee which aroused critical expressions from the Foreign Relations Committee because it was felt to cloud responsibility and delay decisions.<sup>4</sup> This incident and the legislative history of the Act itself show that the legislative and executive branches do not agree on the means of administering the policy of foreign economic and military aid. It can be argued that wider executive discretion is needed in the administration of programs enacted into law by Congress. In foreign affairs flexibility may be as important a principle as accountability.

So strategic is Harriman's position at present that some observers have suggested that he be appointed vice-chairman of the National Security Council, on the grounds that he could free the Secretary of State to be a more active advocate of the Department of State's

special point of view and that he might spare the President the burden of attending NSC meetings regularly and the necessity of stating his personal views until after a thorough examination of the various conflicting views has taken place.<sup>5</sup> The strongest argument against the suggestion is that the Council's usefulness and prestige have been heightened by the President's regular attendance. Since, however, the Director for Mutual Security is by law a member of the Council, this step apparently remains open to the President's discretion.

### *The National Security Council*

The National Security Council has been a most useful center for coördinating the views of certain leading departments concerned with external relations, primarily State and Defense. Although NSC is officially part of the Executive Office, it is not strictly a Presidential staff agency but rather an interdepartmental committee similar to other interdepartmental committees which are not part of the Executive Office. Because of the continuing importance of its work and the interest of the President and its other members, this body, unlike certain others, has maintained its vigor and has performed remarkably well considering the hailstorm of crises that has descended upon it.

Since it is an institution composed of human beings, however, it has not yet achieved perfection. A criticism expressed in some quarters is that it has ears only for the military and political and is deaf to economic and social considerations. Actually this comment was more valid in NSC's infancy when it had four military members (Defense, Army, Navy, and Air Force) rather than only one (Defense) as at present. Moreover, it is the responsibility of the Department of State to be as concerned with nonmilitary as with military aspects of foreign policy, and the regular representation of the Treasury Department, the Director for Mutual Security and the Office of Defense Mobilization, as well as other departments and agencies by invitation, widens the circle substantially.

The proper coördination of foreign and military affairs depends heavily on good legislative-executive relations. Congress, at the moment, tends to have greater respect for military men than it has for diplomatists. This preference makes it difficult for the executive to integrate military and other matters into an over-all foreign policy. But military aspects must be as carefully coördinated as other aspects of foreign policy. There must be close relations between policy-makers and soldiers. There must be civilian control of grand strategy which takes into account all ramifications of a nation's foreign relations. Yet the Joint Chiefs of Staff are by law the principal military advisers to the President. This would appear to give the Joint Chiefs a preferred position and to weaken the authority of their civilian chief, the Secretary of Defense.

A more immediate problem is the need for establishing a better meeting of minds between the Departments of State and of Defense, whose differences are sometimes exploited by the secondary members of the NSC. There is also still considerable difficulty in obtaining a joint position from the three military services in the Defense Department. Although some feel that service differences are unnecessarily bottled up, the establishment of a chairmanship for the Joint Chiefs of Staff has facilitated the coördination of military thinking. Further provision should be made, however, to ensure implementation of decisions made on the basis of NSC recommendations either through its own organization or perhaps through a chief of staff.

In spite of these needs it is fast becoming apparent that NSC is now, in the present tense world situation, the most vital foreign-policy coördinating center in the executive branch and a great aid in presenting an integrated point of view to Congress. It provides a focal point, which we must remind ourselves did not exist at all before July 1947, where the departments and agencies most directly responsible for the security of this country may pool their thoughts and arrive at joint policies. One only wishes that Congress were as well organized in this respect.

*Bureau of the Budget*

The Bureau of the Budget, largest unit in the Executive Office, has become a coördinator of policy through the back door of budgetary coördination. Professor Herman Somers has cited three principal reasons for this development: the strong leadership of former Director Harold Smith, the inevitable overlapping of budget and policy planning, and the absence of any other strong policy-coördinating body in the Executive Office.<sup>6</sup>

Logically, of course, there is no reason why a budget bureau could not be equipped to perform the tasks of both budgetary and policy coördination. But there are several practical reasons why this does not seem feasible in the case of the Bureau and why its policy-coördinating functions are and should be decidedly limited. The major ones are that an organization oriented almost entirely toward the budgetary process lacks the staff and outlook to do justice to the policy aspect; that the Bureau's past traditions and activities have not prepared it for positive and imaginative substantive planning; and that the line agencies would probably not have confidence in it if it were to attempt to become a major policy coördinator.

*Department of State*

The President's principal aid in foreign affairs is the Department of State, which, however, cannot perform its tasks today without the support of Congress. Some observers who are concerned about the present unpopularity of the Department in the halls of Congress seem to feel that this is an abnormal state of affairs. Unfortunately, the Department almost inevitably is the target of Congressional criticism when the country is beset by international difficulties. Given the present world situation the Department would be attacked by some elements in Congress even if it were staffed by archangels.

This situation arises largely out of the frustrating character of the job that the Department must perform, and not the alleged presence of Communist wreckers among the Department's staff, as Senator Joseph McCarthy would have us believe. It is true, of course, that a



few persons have left the Department because of some uncertainty about their dependability as security risks, but they are a drop in the bucket compared to the 8,000 other employees here and 24,000 abroad who have suffered from indiscriminate witch-hunting and have received precious little recognition for their remarkable patience and devoted service.

Unhappily, many Congressmen refuse to face the root cause of their dissatisfaction with the Department. Rather than grappling with the complexity of the present world, they are too ready to make the Secretary of State the scapegoat for all of our international problems. The State Department represents a world that Congress would like to ignore. It delivers few votes and may even cost some. In the eyes of too many Congressmen the Department does nothing but extort billions of dollars from the taxpayer without giving any direct or tangible results in return. It is constantly supporting the claims of "furriners" rather than American farmers, workers, or businessmen. It has the reputation of hiring only "Ivy League" graduates who find it difficult to explain the mysteries of Chinese land tenure and Marxist dialectics briefly and simply. It undertakes international commitments in which our government is seldom able to control the situation entirely or to tell all the facts as it could more easily if only domestic questions were involved. It is a temptation, therefore, for every Congressman to lash at the Department since he need not be afraid of offending any really powerful domestic pressure groups.

Much of the responsibility, of course, rests with the American people as a whole. A rapid shift from passivity to leadership in foreign affairs has left most of us ill prepared to face up to the world as it is. Generally successful in achieving peace and prosperity at home, too many Americans believe that there must be a simple formula that can cure the world's ills. Many are too easily persuaded that Communism has been loosed on the world because somebody blundered. Mistakes have been made, of course, but such an attitude does not lead to an understanding of the basic forces shaping world events or of the policies necessary to cope with them. Americans, at present, are too prone to cry "Yalta" when the going is rough.

Even the greatest Secretaries of State have found Congress more or less hostile. The Secretary represents one world and the legislator another. The situation is exacerbated by the separation of powers. It is true, of course, that some Secretaries, including Root, Hughes, Stimson, and Hull, have generally held the confidence of the Hill. But it is true also that the State Department made fewer demands on Congress when these men held office. Only occasionally did the shadow of foreign affairs fall across the legislator's path. Now it constantly dogs his footsteps.

For these reasons it is doubtful whether a shift in the Department's top command would have improved matters in 1950-51. Mr. Acheson's personality may have been an additional factor in making him a hostage to Congress, but his principal difficulty was that he inherited a sea of trouble. On the positive side, he held the confidence of our allies in a period when the solidarity of the free world was priority number one. He held the confidence of the President and, apparently with the exception of Louis Johnson, of the Cabinet because he was loyal and efficient. With others he brought order and coherence to the process of policy formulation. He did much to increase the administrative efficiency of the State Department. He was one of the leading architects of policies that by 1951 held considerable promise of turning the tide against Soviet expansion.

Yet Congress continues to have a negative attitude toward the State Department, and this fact is one of the most discouraging obstacles to the improvement of executive-legislative relations in the foreign-affairs field. It erodes popular confidence in our entire foreign policy and affects every major decision regarding external affairs. No single factor could be of greater benefit to the conduct of United States foreign relations than to have Congress and the American people begin to understand their own frustrations in this matter, to realize what the real problems are, to appreciate the true quality and worth of the Department, and to discard the childish myths that are playing havoc with our foreign policy.

One major issue regarding the role of the Department of State that is directly affected by the attitude of Congress is the question:

should the Department be expected to coördinate the work of other departments as well as to administer its own programs? This is of course a most complicated problem which can be treated here only briefly as an ancillary aspect of this study. The Congressional attitude has been one of several factors that have given rise to the tendency since World War II to elbow the Department out of the driver's seat. This is part of a tacit policy, adhered to by many Congressmen wherever the executive is concerned, of "divide and rule." Thus Congress insisted that the ECA be established separately from the State Department, with only a thin bridge at the top to join the two. The ECA Administrator and the Secretary of State were merely instructed to keep "each other fully and currently informed on matters . . . within the scope of their respective duties which are pertinent to the duties of the other." Congress also avoided the State Department in assigning responsibility for coördinating the Mutual Security Program. Similarly, Congress gave the chair of the National Advisory Council on International Monetary and Financial Problems to the Treasury Department as one means of making certain that State's jurisdiction in international monetary affairs would be carefully circumscribed.

It is true, of course, that there are many valid reasons for limiting State's coördinating role. The Department cannot be regarded, contrary to the views of some writers, primarily as a presidential staff agency. It is neither anonymous nor divorced from direct line responsibilities. Furthermore, as the current flood of varied international problems penetrates more and more into domestic fields, it is only natural to expect agencies other than State, such as the Departments of Labor and Agriculture and even the Federal Security Agency, to play more active roles.

Perhaps the most feasible rule of thumb is that whenever any project affects our foreign relations in any significant way, the State Department must be primarily responsible for coördinating such a project with our over-all foreign policy. The important consideration to emphasize here is that the question of assigning the coördinating responsibility should be decided on its merits and not on the basis

of a Congressional phobia. If the present legislative attitude is allowed to continue unchecked, it runs the risk of unhinging the entire administration of our foreign policy.

The Congressional attitude also enters into the closely related problem: Should the State Department's activities be limited to the traditional functions of planning, representation, and negotiation or should they be extended to include "operations" such as the administration of the "Point Four" Program? Congressmen who are opposed to the Department have tended since World War II to limit its scope by handing so-called operational assignments to other agencies. As we have already seen, ERP operations were given to the ECA rather than State. On the same basis many legislators have urged that the technical-assistance program, the Voice of America, and other projects be transferred to other agencies.

This problem is not a simple one. Commentators other than Congressmen, including the Hoover Commission, have urged that the Department be relieved of operational duties because they are said to conflict with the Department's traditional functions, because they are usually temporary and hastily organized projects that disrupt the Department's organization, and because some of them are political "hot potatoes," notably the Voice of America.

The most sensible rule, however, would seem to be to give the administration of a program to whatever agency is best equipped, in terms of personnel and general orientation, to handle it effectively. At the same time, when a project significantly affects our external relations, its planning and operation should, if at all possible, be entrusted to State. In actual practice it is nearly impossible to distinguish between planning and operations. The planner needs to have some control over the administration of the plan. Although State and the ECA worked together during the early years with remarkably little friction, more recently State's authority to chart the general course of the program has tended to be frustrated for lack of immediate control over operations. When international operations are assigned to a department other than State, there must be the closest coördination under the aegis of the latter like that

provided by the International Security Affairs Committee in connection with the Mutual Defense Assistance Program. Again a less emotional attitude on the part of Congress would help considerably.

The internal organization of the Department of State is also related to executive-legislative relations regarding foreign affairs, since State is the most important cog in the mechanism that shapes executive recommendations on foreign policy. It also bears the major burden for actually organizing executive liaison with Congress. And, in the other direction, the Congressional attitude affects the organization and morale of the Department.

No executive agency has been put through the wringer of reorganization more regularly or more thoroughly than the Department of State. In the seven years since 1944 the Department has managed to live through three major upheavals and many minor tremors. This intense structural agitation is evidence not only of strains in the Department's internal apparatus but also of the characteristic Washington faith in the healing power of drawing new organization charts. There is evidence, however, that it is about time to call a moratorium on further reorganizations until the Department can catch its breath.

The latest of the major reorganizations came in 1949 in the wake of the Hoover Commission recommendations. Although it is difficult to appraise such an overhauling, the facts available seem to indicate that its principal effects have been to eliminate considerable waste motion, to clarify lines of responsibility, to strengthen the immediate staff of the Secretary of State, to orient the Department's structure more toward the regional than the functional point of view, and to improve the organization for maintaining liaison with Congress.

Excessive lateral clearance was eliminated by giving direct action responsibility to six line bureaus—five regional and one for United Nations affairs. The functional offices were reduced, though not to the extent anticipated by the Hoover Commission, by transferring various specialists to both the line bureaus and to outside agencies. The remainder of the functional personnel, which was given a "staff" rather than a "line" status, serves not only to deal with those matters



that cut across regional lines, such as transportation and trade, but also to enable the State Department to speak the language of corresponding specialists in other agencies.

The hands of the Secretary of State have been freed considerably, though scarcely enough to enable him to cope adequately with the ever-swelling tide of problems. To his pre-Hoover Commission staff were added not only a new Under Secretary but also several additional Assistant Secretaries. As a result the Secretary himself is probably better equipped with staff, in relation to the job he has to do, than is the President. One of the fortunate results of this reorganization is that it is now somewhat easier for the Secretary to spend time on the Hill.

As a result of the Hoover Commission study greater efforts are also being made to free the Policy Planning Staff from day-to-day tasks so that it may wrestle with more long-range problems. This staff has helped to foresee various crises so that the Department could, among other things, consult with Congress well in advance regarding necessary legislation. Unfortunately, however, the speed with which international events are moving has prevented the Staff from giving as careful consideration as it might to many crucial issues.

Finally, the Hoover Commission recommendations were an important factor behind the appointment of a full-time Assistant Secretary of State for Congressional Relations to take the legislative liaison function off the over-burdened shoulders of the Counselor. The increasing attention paid by the Department of State to the question of who is to represent it before Congress emphasizes the fact that this is one of the most vital jobs in the Department. In 1790 the Department consisted of a total of eight persons and Mr. Jefferson could handle all necessary relations with Congress himself; later Secretaries of State have had to lean more and more on assistants to help them in their dealings with Congress. First, the Secretaries used various aides on an *ad hoc* basis, calling on officers whose specialized knowledge qualified them to talk to Congress on particular problems as they arose. More recently, because of the growing volume of foreign-policy problems that call for Congressional at-

tention, the task of maintaining liaison with Congress has assumed the proportions of a full-time job.

In earlier days one of the most effective aides of the Secretary of State was A. A. Adee—Secretary Hay called him “semper paratus Adee”—who, as an Assistant Secretary of State from 1882 until 1924, was often useful in dealing with Congress, usually not in a direct way but rather working behind the scenes to temper the words and action of the Secretaries. Elihu Root called on Wilbur J. Carr, then head of the Consular Service, to assist him in getting Congress to pass legislation reorganizing the consular service and the Department as a whole. Woodrow Wilson was one of the first to use the Counselor, a post created in 1909, as special adviser on Congressional relations, among other problems. To that position he first appointed Bassett Moore, who had already had experience in influencing Congressional opinion when he served as secretary and counsel to the United States Commission to the Peace Conference with Spain at Paris in 1898. More recently, Secretary Cordell Hull depended on Counselor Judge R. Walton Moore, a former Congressman, who is said to have been useful not so much for his participation in the formulation of policy as for relations he established with the Hill.

The development that led to the making of Congressional liaison a full-time job, however, began when Hull appointed Breckinridge Long, in October 1940, as Assistant Secretary to devote most of his time to maintaining close relations with Congress. The position was officially designated “Assistant Secretary for Congressional Relations” in January 1944. Long was soon thereafter succeeded by Dean Acheson, who was generally recognized in both branches at that time as being the most effective of all the ambassadors to Congress. Those who admired his work cited as reasons for his success his impressive personality, his participation at the highest levels of policy formulation which enabled him not only to speak authoritatively to Congress but also to see that the Congressional point of view was brought to bear on the making of policy, his use of able lawyer-assistants to follow important issues from beginning to end and to do everything necessary to present a strong case to Congress, and his

insistence that all important contacts between the Department and Congress be cleared through his office.

In view of Acheson's success in the legislative-liaison role it is particularly ironic that he has more recently had so much difficulty with Congress. It seems clear that his decline in legislative favor is less because of any change in his own character than because of the change in the character of his position. From a secondary level in the hierarchy he rose to the top rung where he personifies the Department of State and is held personally responsible for all its sins, real and imaginary.

When, in July 1945, Acheson achieved the rank of Under Secretary, he continued to manage Congressional liaison and the Assistant Secretary post remained unfilled. After Acheson's resignation early in 1947, Charles Bohlen managed the job as Counselor. Since the appointment of a full-time Secretary for Congressional Relations, following the Hoover Commission report, the Department has been able to devote more time and thought to the all-important task of maintaining close relations with the Hill. This has resulted in the tighter organization and coördination of all contacts between the Department and Congress and periodic briefing seminars with various legislative groups including subcommittees of the foreign-policy committees which are organized roughly according to the major regional and functional divisions of the Department. Better teamwork between the State Department and Congress is beginning to emerge. This is due in large measure to the Department's Congressional liaison staff and the Congressional committee staffs.

In spite of these extraordinary liaison efforts, however, Congressional sentiments with respect to the State Department remain, as has been noted, substantially unsweetened. Why? First of all, some aspects of the international position of the United States grew worse rather than better from 1949 to 1951. Second, Congressmen just do not have the time to plow through reams of background material and spend hours in briefing sessions. Finally, against all appeals to reason runs the strong current of irrational resentment.

And yet reason and facts, given half a chance, continue to be

powerful instruments of persuasion. The Department can and must continue to develop its legislative-liaison function as its most important ambassadorial mission. In many instances, Congressmen have responded coöperatively to a full and candid presentation of the facts. This is demonstrated by the interbranch negotiations regarding the North Atlantic Pact and the Mutual Defense Assistance Program.

Nor is Congress the only organization that stands in need of education. Department of State officials who tend to be shy of Congress should be conditioned to understand the peculiar requirements of effective legislative liaison. They should learn even more than they have thus far about how to win friends and influence people in Congress. This is the function not of the Assistant Secretary for Congressional Relations alone but of the entire Department, under the Assistant Secretary's general coördinating direction. In fact, the crucial legislative liaison burden must continue to be carried by the Secretary of State himself and by his top policy advisers, because of their authority and prestige.

To the question of what to tell Congress and when, the best answer is: as much and as early as possible. Some people in the executive branch may say that there will be "leaks," that Congress does not and cannot absorb all the information that it now gets, and that too much information too early may result in a "legislative veto." The reply that seems indicated by this study is: first, that some leaks are unavoidable, on the executive side as well as the legislative; second, that in spite of these apparently inevitable annoyances, relatively good results have been obtained by limiting confidential information to a small group of leading Congressmen; third, that the development of Congressional staffs is making it possible for the committees to digest more information than in the past; fourth, that the Department should keep its own record clear by making available all information that it believes necessary to support its case regardless of the Congressional capacity to absorb it; and fifth, that past experience has demonstrated that Congress is more apt to support the Department when it has substantially the same information



at its disposal that the Department has. It is true, however, that some individuals in Congress have not lived up to their full responsibilities in this respect. Congress must do its best to protect the integrity of confidential and secret information. Coöperation is a two-way street. The Department, in turn, must realize that publicity is important to a legislator faced with the hazards of election.

*Ambassadors and Delegations*

Who represents the United States abroad may often be as important to Congress as the policy that is represented. Benefiting from the League experience, President Roosevelt's decision to send Senators and Representatives of both parties to the San Francisco Conference was a most important factor in winning Congressional support for the United Nations Charter. This attitude is only natural, since most citizens feel that their control over the choice of their political representatives is the best means of controlling the policy decisions that those representatives may be called upon to make. It has also proved politically useful to appoint Congressmen to various representative posts, most frequently as conference delegates, observers, or advisers. The participation of Congressmen in meetings of the Council of Foreign Ministers and various United Nations organs has usually proved helpful in winning support for the Administration's policies regarding those bodies. Occasionally, however, Congressmen may resist such assignments because of a lack of time or unwillingness to be bound by serving as a delegate. In the latter case appointment as an observer or adviser is often a good compromise.

Since the Senate must, according to the Constitution, approve the nomination of all ambassadors and other ministers, Presidents should consult leading Senators before making such nominations. In practice, this appears not to be done sufficiently. Nor does it seem worth the effort to try to force through a candidate who is obviously out of favor with the Senate, as when President Roosevelt tried unsuccessfully to compel the Senate to accept Ed Flynn, Democratic boss of the Bronx, as Ambassador to Australia. Through its appointment responsibility the Senate exercises an important check on



foreign policy. In 1951, certain members of the United States Delegation to the General Assembly were subjected to such close questioning on many matters that initiative in determining policy seemed to have been wrested away from the executive. Dr. Philip C. Jessup was included in the delegation by a recess appointment by the President when the Senate agreed by unanimous consent that his name be left "without prejudice" before the Committee on Foreign Relations.<sup>7</sup> In this case Mr. Jessup appeared not to be out of favor with the Senate as a whole. So-called "executive agents" can of course be appointed without Congressional approval. Again, however, to consult Congressional leaders regarding such appointments is an easy way to win legislative good will.

### *Other Executive Agencies*

If an earlier Secretary of State such as John Hay were suddenly to appear in Washington and to investigate the present conduct of United States foreign affairs, one of the first changes that he would undoubtedly note is that the Department of State no longer reigns unchallenged over the realm of external policy in the executive branch. Newcomers, including the Treasury, Agriculture, and Labor Departments, are also playing important roles in the international field. This development is significant because it is symptomatic of the increasing penetration of international activities into areas that have traditionally been considered "domestic."

The multiplicity of agencies besides the State Department that are involved in foreign affairs also affects executive-legislative relations. For one thing, it makes it increasingly difficult for the executive branch to speak to Congress with one voice and one plan. It also encourages Congress to disperse the control of foreign affairs among the many interested agencies.

Coördination is essential, therefore, but coördination is a much misunderstood term. Some commentators write as if coördination took place only at the top of the executive hierarchy and only in the presence of full-time "coördinators." If this were true the wheels of government would rapidly grind to a paralyzed halt. Most coördination, and probably the most effective variety, takes place informally

at all levels of government over desks, lunch tables, and telephone wires.

There are occasions, however, when the lower levels are unable to agree, and the problem rises gradually toward the top where special machinery, usually an interdepartmental committee, tries to resolve the issue. While this kind of high-level coördination is especially authoritative, it also consumes the time of important people and should for that reason be used as sparingly and efficiently as possible. Thus the jurisdictions and appellate procedures of these bodies should be made clearer than some of them have been in the past.

Interdepartmental committees should be limited in size to the most manageable proportions possible, peripheral agencies being added only under special circumstances, and should be established at a level that ensures effective and sustained participation. To achieve flexibility of membership and function, these bodies should be established and terminated by executive rather than Congressional action. The Executive Office should also provide continuous guidance through special observers appointed to sit on these bodies. Finally, the integration of the present separate committee staffs into a single executive secretariat under the direction of an executive chief of staff would help to mesh the activities of these various bodies, eliminate much duplication, and give the President firmer control.

As in policy formulation, so in Congressional liaison, the Department of State should take the lead when foreign affairs are concerned. At the same time other agencies can play a strategic role in keeping Congress informed regarding their special functions under the general direction of the Department of State. This coördinated pattern of liaison worked remarkably well in the case of the ECA and the Mutual Defense Assistance Program, but when Louis Johnson was Secretary of Defense there was serious conflict over the Far Eastern situation.

#### THE LEGISLATIVE BRANCH

While the executive branch may creak a bit at the joints, the legislature presents even more difficulties as it grapples clumsily with today's gargantuan problems of foreign policy. Congress is pe-

cularly frustrated by its present predicament. Beginning with the depression it has been buffeted by a never-ending series of emergencies. In the process of meeting these challenges the executive has grown to be a streamlined giant while Congress by comparison has continued at a horse-and-buggy pace. This is not to deny the invaluable contribution made by those Congressmen whose efforts demonstrate an informed and courageous grasp of current international problems and who are among the most vigorous critics of the legislature's shortcomings. Nevertheless, so serious and so obvious is the legislative situation that it has become the subject of a swelling flood of literature aimed at finding reforms that will help the legislature perform its tasks.<sup>8</sup>

### *General Problems*

Before examining the parts of Congress that are peculiarly concerned with external affairs it is important to take a quick look at the total Congressional framework. While foreign-policy questions are only part of the grist that goes through the mill, one cannot understand the final product without analyzing the entire structure.

The most important fact that emerges clearly from the present situation is that Congress is bogged down in a morass of complexities without sufficient discipline, skilled analysis, or coördination to do its job adequately. The symptoms are clear. Each session Congress seems to get further behind schedule. Many important bills never get the attention they deserve. Those that manage to squeak through are often poorly drafted and insufficiently understood by the rank and file of Congress. The legislators often know too little about bills other than the ones handled by their own committees. Too much time is devoted to badly organized, inconclusive, and often unfair investigations which are justly dubbed "fishing expeditions." Too often Congress questions junior Foreign Service officers and military personnel instead of holding the civilian heads of departments responsible for the administration of policy. This endangers responsible behavior within the President's official family. It seems dangerous and unnecessary to carry checks and balances to the extent

of exploiting differences within the executive branch. At present government officials do not get the protection in the performance of their duty that is afforded by cabinet responsibility in a parliamentary government. Carefully balanced executive appropriation requests are often mangled beyond recognition, usually with the knowledge that most of the cuts will be restored later in supplemental appropriations. These problems are magnified in the foreign-policy area, which produces a great many headaches for Congressmen and very few votes. While some of this confusion is probably inevitable in view of the growing complexity of modern government, ways must be found to mitigate the worst aspects of this situation if Congress is to meet its responsibilities.

One means of providing relief would be to reduce the volume of business that is annually sluiced into the Congressional hopper. The Legislative Reorganization Act of 1946 shunted many types of minor bills into the courts and executive departments, but much more could be done to spare Congress the burden of sifting trivial proposals. In this connection Congress and the executive might well agree to consider more programs as integrated "packages" rather than as a string of separate projects, a development which is already well advanced in the field of foreign aid. Other proposals that would help to unshackle the legislature's hands would be to establish home rule for the District of Columbia, to authorize more personal assistants for Congressmen, to organize central services to help get hotel reservations and theater tickets for visiting constituents, and to delegate additional powers to the executive branch, the states, and regional authorities.<sup>9</sup>

Congress should, moreover, rethink its basic mission in relation to the modern problems that it faces. It cannot possibly compete with the research, analytic, or administrative facilities of the executive branch and would do well not to try to seize the initiative from the executive in those areas. More rigorous self-discipline would spare it many of the pangs of frustration that it now suffers. After Congress had passed the "Kem Amendment" in 1951 prohibiting all economic aid to nations exporting strategic materials to the Soviet

sphere, without leaving any discretionary leeway to the executive, it had to admit that the amendment caused more difficulties than it solved. The provision was eventually modified and more flexible terms put in its place.

Congress is well suited, however, to perform certain other functions on which it should concentrate its energies. It can inform—by debating the issues submitted to it. It can criticize—by subjecting these proposals to careful scrutiny. It can approve—thereby giving official public backing to the acts it passes. In coöperation with executive officials, it can initiate policy, as in the case of the Atlantic Pact. And it can review performance—by studying executive reports and conducting investigations.

The Congressional burden would also be lightened if the committee apparatus were improved. Although the Legislative Reorganization Act reduced the number of committees and the number of assignments that a Congressman might be given, many legislators remain overburdened with committee labors. The chairmen of committees and members of particularly busy ones should probably serve on only one body. It would also be a great boon if in the appointment of committee members and especially their chairmen more attention could be paid to their special qualifications and party regularity than to seniority, as at present. Further attention should also be given to making committee reports more informative and analytical than they now are. Since they frequently influence Congressional decisions considerably, it would be well worth the effort to make them more useful policy instruments. Committee agenda, hearings, and records should also be more carefully organized. And committee procedures should be studied with a view to making these bodies more responsible to their parent chambers and more considerate of the rights of witnesses.

The effectiveness of Congress also depends largely on its staff. Congress cannot and should not try to duplicate the tremendous professional resources of the executive branch, but it can and must maintain a staff that has the time and skill to ask the right questions—to spot check and appraise the general quality of the executive's



recommendations. Without this kind of guidance the average Congressman feels as if he were playing blindman's buff with the executive and that his best defense is to lash out at everything. Adequate staff assistance can do a great deal to assuage the Congressional inferiority complex and to build a bridge of confidence between the two branches.

Present Congressional staff resources include first of all the Legislative Reference Service, established in 1915, which employs a considerable number of specialists and is available to furnish facts and analysis to any committee or individual legislator. Committees are also authorized to hire their own staffs, limited in each case to four professional specialists, except for the appropriations committees, which may hire more. Finally, each Representative receives \$9,500 a year, and a Senator between \$20,000 and \$30,000, to hire clerks. Senators are also allowed an administrative assistant at an annual salary of \$10,000. There is ample evidence, however, that Congress is not yet adequately staffed. Not only should Congress be urged to fill its present quotas, but it should also improve the general quality of this personnel, strengthen the Legislative Reference Service, enlarge certain committee staffs, and give Representatives assistance more comparable to that allowed Senators.

### *The Senate*

Aside from the general problems that concern Congress as a whole, it is also important to understand the current roles of the two chambers as they affect foreign policy. The Senate, long the undisputed autocrat of the diplomatic sphere, continues to provide the big policy debates. Yet owing to the decline in the use of treaties, the concomitant increase in the popularity of executive agreements, and the growing need for legislation and appropriations to fulfill our international obligations, the House is rapidly becoming as important as the upper chamber. Whenever a policy program depends on the approval of a treaty, however—and some of the most important ones still do, as in the case of the United Nations Charter and the North Atlantic Pact—the Senate comes into its own. It also

passes on all legislation and appropriations. Its members include leading political figures who have great influence in the international field, such as Robert Taft and the late Arthur Vandenberg. And about it still hovers the aura of great traditions. Executive officials concerned with external affairs are still careful, therefore, to pay their respects to the upper chamber.

This does not, of course, alter the fundamentally undemocratic character of the Senate, which was discussed above in connection with the two-thirds treaty rule. Moreover, because only one-third of its members stand for election every two years, it tends to be sluggish in responding to the changing pattern of public opinion. Because of these and other considerations, the Senate seems to many observers to be in need of reorganization. One proposal is to change the term of Senators from six to four years, thereby making it more likely that the chamber will reflect the current mood of the electorate.

#### *Senate Committee on Foreign Relations*

Within the Senate the Committee on Foreign Relations is still the hub of the foreign-affairs wheel and that chamber's foremost standing committee. Its voice is the major force that guides the Senate's exercise of its prerogatives in the international field; it was the first Senate committee to be established; it has accumulated an impressive patina of tradition, embellished with the names of Andrew Jackson, Henry Clay, Daniel Webster, Elihu Root, William Borah, and Arthur Vandenberg; and its seats are still among those most coveted by ambitious Senators.

At the same time we have seen that the changing character of United States foreign policy has caused a partial eclipse of the Foreign Relations Committee. Its rivals are not only the House and its Committee on Foreign Affairs, but also other Senate committees, such as those on Appropriations and the Armed Services. Other committees, including those on Banking and Currency and on Agriculture, are increasingly drawn into the foreign-affairs orbit. This dispersal of legislative foreign-policy activity complicates both the task of coördinating Congressional views and the task of execu-

tive liaison with the legislature. At times the Department of State has jeopardized the success of its Congressional negotiations, as in the ERP discussions, when it has not given sufficient attention to some of these newcomers in the foreign-policy sphere.

Like all Congressional committees, the Senate Committee on Foreign Relations would benefit greatly from injections of new members chosen primarily on the basis of their special capacity to deal with foreign-policy questions, which is now one of the criteria that receives the least consideration in making such assignments. Characteristically, when John Foster Dulles was appointed to the Senate in 1949 he was not given a seat on the Foreign Relations Committee in spite of his obvious qualifications for such a post.

To strengthen its relations with the Department of State, the Foreign Relations Committee established in April 1950 eight subcommittees, organized according to the major international regional and functional concerns of the United States: United Nations Affairs, economic and social affairs, Far Eastern affairs, European affairs, Near Eastern and African affairs, American Republic affairs, public affairs, and State Department organization. Recently the last two were combined, making a total of seven subcommittees at present. Each committee is composed of two members of the majority party, one of whom is chairman, and one member of the minority party. Some have four members on a bipartisan basis. The objectives of these groups are to meet from time to time, hopefully once a month, with State Department specialists and to discuss current problems in their respective fields. By means of this specialization it was intended that "at least two or three members of the Committee [might] be kept currently informed with respect to events and anticipated developments in every quarter of the earth."<sup>10</sup> While this is an admirable step in the right direction, it is hampered by the fact that even those Senators who sincerely want to take advantage of such conferences find that they seldom have the time. This situation merely underlines the frustrating character of the problem of trying to keep Congress thoroughly and currently informed.

The staff of the Senate Foreign Relations Committee is a shining

beacon in a legislature that does not have a superabundance of competent professional personnel. Francis O. Wilcox, the chief of staff, is nationally known and respected and is supported by a small but highly competent group of associates. At the same time it should be obvious by now that the effectiveness of a committee staff's work depends almost entirely on the support that it receives from the committee members and especially the chairman. Fortunately Wilcox has generally had the backing of the Committee, regardless of the party in control—a remarkable achievement in itself.

As a result, this staff has played a strategic and praiseworthy role, anonymous though it is, in interpreting the views of the two branches to each other. No group of men in the Senate has worked more disinterestedly or more devotedly to ferret out the facts as the basis for sound policy. The only suggestions that might be made in this connection are that an increase in the size of this staff would undoubtedly multiply its usefulness and further thought might be given to promoting even closer collaboration than now exists with the staffs of other related committees in both the House and the Senate.

### *House of Representatives*

As the Senate's relative influence has declined, that of the House has risen. Yet the House labors under considerable handicaps in dealing with foreign, as with domestic, matters. The average Representative scarcely gets to Washington before he must start planning his campaign for reelection. Certain of the Founding Fathers prophesied better than they knew when they said that the House was ill suited to participate in foreign-policy matters, since its membership was not only too large to act as a select advisory council to the President but would not have the benefit, among other things, of long continuous periods of service.

Events have given the House such a central role in the foreign-affairs field, however, that the biennial elections, which have sometimes given control to the anti-Administration party, have frequently caused havoc in the conduct of United States foreign relations. It is

hoped, therefore, that serious attention will be given to the proposal, which has received increasing attention in recent years, that the term of Representatives be changed from two to four years.

The House is also at something of a disadvantage because of its size in comparison with that of the Senate. The upper chamber has more the atmosphere of a small—though scarcely sedate or exclusive—club, while the lower chamber seems more like Grand Central Station during the evening rush hour. Not only is the average Representative distracted by his reelection worries but he also feels like a very small cog in a very large and hectic machine. While there is very little hope of reducing the size of the House at this time, it is important to understand the implications of this problem as they affect the foreign-policy role of the House.

#### *House Committee on Foreign Affairs*

As the House has risen rapidly in the external-affairs field it has pulled the House Committee on Foreign Affairs after it. From being a body that was called in less happy days a "dump heap where service was a chore rather than a privilege"<sup>11</sup> it has become one of the outstanding committees in the Congress. In the 81st Congress more Representatives sought places in this body than in any other. While the committee lacks the proud traditions of the Senate Committee on Foreign Relations, it is beginning to attract certain strong personalities, such as James Richards, Jacob Javits, Christian Herter, John Vorys, Mike Mansfield, Frances Bolton, and Franklin Roosevelt, Jr. It is just as appropriate here, however, as in the case of the Senate committee, to urge that greater efforts be made to make future appointments to this body primarily on the basis of ability and a knowledge of foreign affairs.

To make the most of its resources, the Committee established as early as 1945 five subcommittees of five members each, organized according to the major regions of the world. Unfortunately, these committees have suffered because the Representatives have not participated in them regularly.

For a time the House committee tended to be less successful than



the Senate body in maintaining adequate professional staff, largely because of the lack of support on the part of many of the members and chairmen. Yet at times the committee has attracted very able personnel, notably Professor William Y. Elliott as staff director and several of the men he brought with him, such as George Pettee and C. B. Marshall. They did especially useful work in connection with the economic-aid programs from 1947 to 1949. At times, however, leading committee members have preferred to play by ear without the assistance of trained professional people. The complex problems that confront the Committee, however, call for a substantial strengthening and expansion of the staff as well as more thorough collaboration of this personnel with the staffs of other House and Senate bodies. Fortunately, several thoroughly competent individuals have recently been appointed to the staff. The Committee now appears to recognize the necessity of professional assistance.

### *In Search of Coördination*

Congress dealing with foreign policy is a Don Quixote riding off in all directions at once.<sup>12</sup> If coördination is difficult in the executive branch, it is even more difficult in the legislative. This makes the decision-making process on the Hill unfortunately disjointed and time-consuming. The Senate Armed Services Committee may pull one way; the Foreign Relations Committee another; and the Appropriations Committee, still a third. The process is only slightly more disciplined in the House. Our enemies are overjoyed at this spectacle, our friends are confused, pressure groups are encouraged to play off one Congressional bloc against another, and these blocs themselves frequently promote and exploit dissension within the ranks of the executive.

Anyone intimately acquainted with the vagaries of Congress tends to despair of achieving any real teamwork as long as our national party organizations are so weak and each Congressman plays his own game dictated by local rather than by national interests. It is fast becoming apparent, however, that local concerns are inextricably bound up with national and international problems. Today as never

before it is obvious that, unless the anarchy of local interests is counteracted by these broader considerations, there is real danger that the entire nation and with it the world may suffer disaster.

We have already seen in the discussion on bipartisanship that one democratic solution for this problem is the reinforcement of national party control. One critic has said that "only by vitalizing our two-party system, by playing national party politics more zealously, and by centralizing control of our parties, will Americans be able to . . . foster teamwork in the federal government."<sup>13</sup> If this can be accomplished, Congress will no longer be thought of as a haven for unreconstructed individualists. It will no longer enjoy the luxury of anarchic paralysis. Members of the two parties will be expected to follow their leadership on all major measures.

But Congress need not become a rubber stamp. It can still perform the important functions discussed above: to inform, to criticize, to approve, and to review. Most important, the party policy committees in Congress, which now rarely try to bind their members, would provide firm guidance for their members and would serve to eliminate the fumbling and frustration that now characterizes much Congressional activity. As we have also seen above, the strengthening of central party control need not preclude bipartisanship. Rather it would provide the discipline to make bipartisan commitments more effective than they are at present.

Coördination may also be achieved by tightening the screws of Congress's own machinery. Within each house, for example, the various bodies concerned with foreign-policy questions might well work in closer harmony. Fortunately, there have already been some notable moves in this direction. The Senate Armed Services and Foreign Relations Committees held joint hearings on both the Mutual Defense Assistance Program and the dismissal of General Douglas MacArthur. In spite of the administrative and political difficulties involved in these experiments, they have proved useful in many respects and should be developed further.

It would also be well if in both houses the foreign-policy committees were recognized as exercising in the legislative sphere, more

than is now the case, the same over-all guiding role regarding foreign policy that the Department of State plays in the executive branch. These committees would then be responsible for recommending the general legislative course on external affairs and would be consulted by, and invited to send representatives to participate in, all other committees when dealing with foreign-policy questions.

It is especially important that there be the closest coördination between the foreign-affairs committees and the appropriations committees. In the Senate it has been customary for some time for two majority members and one minority member of the Foreign Relations Committee to join the Senate Appropriations Committee as nonvoting visitors when the latter deals with questions affecting the Department of State. Although this collaboration is limited to an unfortunately narrow scope, it encourages the Appropriations Committee to look at such matters in terms of their policy significance rather than as mere "budgetary" questions. It would be preferable, however, if this practice could be expanded to affect a broader range of issues.

Unfortunately, since the House Foreign Affairs Committee has not yet attained the status enjoyed by the Senate committee, the former has been relatively unsuccessful in winning the coöperation of other House committees. Although it has invited all Appropriations Committee members who care to do so to meet with it on matters of mutual concern, this bid has resulted in no appreciable coöperation and has produced no reciprocal invitations. Nor has there been significant collaboration with any other House committees.

Another device that has been tried occasionally to promote coördination within the houses has been the establishment of special or select committees such as the productive Colmer and Herter Committees discussed above in connection with post-World War II economic-aid matters. Such bodies have been organized less frequently, however, since the Legislative Reorganization Act of 1946 tried to limit their use because it was felt that they were detrimental to the regular committees. While such bodies may tread on the toes

of the standing bodies, they can, if skillfully administered within carefully defined boundaries and if composed of leading Congressional figures, produce very useful and influential results.

One would also expect that a closer meshing of the activities of committee staffs would greatly facilitate Congressional coördination. But the disease of jurisdictional sensitivity has threatened to spread to the staffs, and there is relatively little collaboration save for exceptional instances, such as the coöperation that took place between the staffs of the Senate Foreign Relations and Armed Services Committees on the Mutual Defense Assistance Programs. There is no reason, however, why this kind of teamwork could not be extended so that, in collaboration with the Legislative Reference Service, Congressional research resources might be utilized with maximum efficiency and minimum duplication.

If the barriers that divide each of the two houses internally seem difficult to overcome, the wall that separates the House from the Senate is practically insurmountable. Only on extraordinary occasions, when the President speaks on the state of the nation or the Secretary of State reports on a conference that he has attended, does the entire membership of both houses sit together. And those occasions result in no direct policy collaboration. A sign of improvement, however, is that the Senate and House staffs have worked together very well this past year on the foreign-aid program.

One suggestion frequently made is that committees of the two chambers should work together on matters in which they have parallel interests. But this is rarely done, since the members of these bodies, especially on the Senate side, have a horror of being submerged in a large joint body and do not want to sacrifice any of their precious independence. It was possible, however, to arrange joint meetings of the two foreign-affairs committees to hear the initial statements of the Secretary of State and a few other high officials regarding the ERP, and this practice was used more in the last session of the 81st Congress. But when the time comes for intensive questioning, no committee likes to share time or limelight with any other body, particularly one belonging to the other house. When the



circumstances seem appropriate, joint hearings should be pushed as far as possible in order to conserve time and effort, but their limitations should also be clearly recognized. And the same should be said about interstaff coöperation between the two houses.

One post-World War II device which was designed to pull together the views of both houses, and of various committees within each of the houses, has been the establishment of several "watchdog committees." Those that touched most directly upon foreign-policy questions were the Joint Committee on Atomic Energy and the Joint Committee on Foreign Economic Coöperation. In spite of certain accomplishments, however, the latter proved not very useful or influential in policy making. The Atomic Energy Committee, however, has been an effective channel for keeping the legislature in touch with the executive branch on atomic developments. Nevertheless, this body has been unique in that it has not had to compete with any established standing committees in its special field nor has it had heavy legislative responsibilities. On general foreign-policy questions it is unlikely that a joint watchdog committee can produce effective collaboration between the two chambers.

It is difficult, however, not to wish for some Congressional channel that would provide an integration of legislative foreign policy to match the coördinating role of the National Security Council on the executive side. At present a major share of the burden of integrating the legislature's views falls on the shoulders of the executive. In view, however, of the intra- and interhouse jealousies that now exist, it seems unlikely that any joint Congressional committee on national security will prove effective until party discipline is substantially reinforced.

#### *A Commission on the Organization of the Federal Government*

Many will agree that, if present dangers are to be met, the organization and procedures of the Federal Government need overhauling. It is true, of course, that administration can never be a substitute for leadership. But it is not true that organization makes no



difference if the right kind of people are at hand. The most intelligent people can be thoroughly frustrated by undisciplined administrative procedures. Good government requires both intelligent personnel and sound administration.

What is to be done? The fundamental task, as was noted above, is one of altering the basic political attitudes of the American public and its representatives. No longer should we value checks and balances above action, separation above collaboration of powers, irresponsibility above responsibility. It is a change of attitude that we seek together with mechanical alterations that are nothing more than the surface manifestation of basic political philosophies. The major problem is one of reëducation and not merely the drawing of new organization charts.

At the same time, one way to alter political thinking is to initiate a campaign to alter governmental machinery and procedures to meet the needs of today. The changes we recommend have been set forth above. Yet they are the mere skeleton of a far more complete study that remains to be made.

The time has come, therefore, for a new and broader "Hoover Commission"—a Commission on the Organization of the Federal Government. It should study the entire government, not just a single branch as the Hoover Commission did, and should examine domestic as well as foreign affairs because of the obvious interaction between the two. It should devote more attention to long-range fundamental constitutional reforms than did the Hoover Commission. To promote the greatest possible independence and to enable it to remain active well beyond the period allowed the Hoover Commission, this body should be established outside the government and be financed by some of the great private foundations. Yet if its findings are to carry weight, the commission must include among its members leading and influential governmental as well as private figures.

The necessity for such a commission arises from the fact that the United States cannot avoid the responsibilities of world leadership. The common defense and the general welfare now require coöperative foreign policies and the increasing use of the multilateral tech-

nique in diplomacy. For this reason the United States has joined the United Nations and undertaken commitments in several regional security pacts. Do these developments spell the doom of our traditional system of government? Not at all. Our conclusions on this point may be summarized as follows.

First, the United States cannot be a leader in world affairs without the closest possible collaboration between our executive and legislative branches. Second, it is at this very point, because of present attitudes toward the separation of powers, because of poor discipline within both branches, and because of a feeble party system, that our foreign-policy-making process is most vulnerable. Finally, the interbranch friction, to which we have become accustomed in the domestic sphere, cannot be tolerated any longer in foreign affairs.

What is needed is the development of a far stronger spirit of mutual trust between the two branches, reinforced by the organizational adjustments suggested above. If the development of such a spirit seems utopian, let us remember that we have approached such an attitude during great emergencies in the past, and that the emergency today is perhaps as crucial as any we have faced. We cannot be slaves to traditional attitudes. While governmental procedures have been adjusting to the temper of the times, rough spots remain to be smoothed off. Ambassador Kennan has told us: "A nation which excuses its own failures by the sacred untouchableness of its own habits can excuse itself into complete disaster."<sup>14</sup> The disaster may be nothing less than the loss of those areas of freedom that remain on this planet.

*Notes*

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# Notes

## CHAPTER TWO

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2. See Chapter XI.
3. Text of the President's statement in the *New York Times*, June 3, 1951.
4. This is also the view of Professor W. Y. Elliott in an unpublished memorandum, "Executive-Congressional Relations in the Formulation and Control of United States Foreign Policy."

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16. *Ibid.*, p. 161.

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20. See Bailey, *Diplomatic History of the American People*, chap. xxx and Corwin, *The President: Office and Powers*, pp. 229-230.

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1. Brooks Adams, *America's Economic Supremacy* (New York, 1900), pp. 47 ff.

2. A. W. Griswold, *The Far Eastern Policy of the United States* (New York: Harcourt, Brace, 1938), p. 13.

3. For a full account, see Griswold, *op. cit.*, chap. i.

4. *Ibid.*, p. 17.
5. B. D. Hulen, *Inside the Department of State* (New York: Whittlesey House, 1939), p. 248.
6. Quoted by Holt, *Treaties Defeated by the Senate*, p. 165.
7. *Ibid.*, p. 177.
8. See State Department Publication No. 3573, Far Eastern Series, 30, *The United States Relations with China* (Washington: Government Printing Office, 1949) [White Paper], pp. 1-26; J. K. Fairbank, *The United States and China* (Cambridge: Harvard University Press, 1948), chap. xiv; Griswold, *Far Eastern Policy of the United States*, chap. ii.
9. *White Paper*, p. 2.
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12. Wallace McClure, *International Executive Agreements* (New York: Columbia University Press, 1941), pp. 96-97.
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15. For the Washington Conference of 1921-22 and the three treaties, see Griswold, *Far Eastern Policy of the United States*, chap. viii.
16. Hulen, *Inside the Department of State*, p. 238.
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18. Dangerfield, *In Defense of the Senate*, p. 186.
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2. J. P. Tumulty, *Woodrow Wilson As I Know Him* (New York, 1921), pp. 330-332.
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10. *New York Sun*, February 27, 1919.
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12. *Ibid.*, p. 4974.
13. *New York Times*, March 4, 1919.
14. Tumulty, *Woodrow Wilson*, pp. 534-535.

15. *Ibid.*, pp. 539-540.
16. Nevins, *Henry White*, p. 400.
17. D. F. Fleming, *The United States and the League of Nations, 1918-1920* (New York: Columbia University Press, 1932), p. 196.
18. Henry Cabot Lodge, *The Senate and the League of Nations* (New York, 1925), p. 147.
19. *Ibid.*, p. 156.
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2. H. L. Stimson and McGeorge Bundy, *On Active Service in Peace and War* (New York: Harper, 1948), p. 215.
3. *Ibid.*, p. 206.
4. Quincy Wright, "The United States and International Agreements," *American Journal of International Law*, XXXVIII (1944), 343.
5. Stimson and Bundy, *On Active Service in Peace and War*. Stimson felt the delegation to be "as strong as any sent by the United States to an international conference in his lifetime." For an excellent account of this well-conducted conference, see pp. 162-174.
6. White Paper, pp. 13-15 and 446-450.
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8. S. E. Morison and H. S. Commager, *The Growth of the American Republic* (New York: Oxford University Press, 1937), pp. 348-350.
9. Cordell Hull, *The Memoirs of Cordell Hull* (New York: Macmillan, 1948), vol. I, chap. xxix.
10. On this point, see G. F. Kennan, *American Diplomacy, 1900-1950* (Chicago: University of Chicago Press, 1951), chap. iv, and H. J. Morgenthau, *In Defense of the National Interest* (New York: Knopf, 1951).
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15. *Ibid.*, pp. 649-650.
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1. 78th Cong., S.R. 170.
2. *Congressional Record*, Feb. 16, 1944, pp. 1737-1763.
3. Kenneth Colegrove, *The American Senate and World Peace* (New York: Vanguard, 1944), pp. 27-31.
4. *Congressional Record*, July 8, 1943, and Feb. 16, 1944.
5. See Kenneth Colegrove, "The Role of Congress and Public Opinion in Formulating Foreign Policy," *American Political Science Review*, XXXVIII (1944), 959-961.
6. The UNRRA Council was set up Nov. 10, 1943 at Atlantic City. See Department of State *Bulletin*, IX, No. 229, pp. 317-319, and No. 222, pp. 211-225.
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8. Hull, *Memoirs*, vol. II, pp. 1635-1636, and see Department of State, *Post-war Foreign Policy Preparation, 1939-1945* (Washington, 1949).
9. *Congressional Record*, Nov. 25, 1942.
10. Hull, *Memoirs*, vol. II, p. 1670.
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14. *Ibid.*

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1. 78th Cong., Eleventh Report of the Colmer Committee, House Report No. 2720, p. 1.
2. *New York Times*, May 9, 1947. These views were repeated May 21 (*Times*, May 22).
3. "Basic Documents and Background Information—The European Recovery Program," prepared by the staffs of the Senate Foreign Relations Committee and the House Foreign Affairs Committee, Washington, Nov. 10, 1947, p. 2.
4. James Reston, *New York Times*, May 25, 1948.
5. *New York Times*, June 6, 1947.
6. The Krug, Nourse, and Harriman Committees.
7. Public Law 84. 80th Cong.
8. See Chapter XII.



9. *Final Report on Foreign Aid of the House Select Committee on Foreign Aid* (Washington, 1948), pp. 607-608.
10. *Ibid.*
11. *Ibid.*, p. 690.
12. *Ibid.*, p. 693.
13. *Ibid.*, p. 696.
14. *Report of the Committee on Foreign Relations*, Senate Report No. 935 (Washington, 1948), p. 9. Secretary Marshall warned the Committee that there could not be two Secretaries of State.
15. Public Law 472, 80th Congress, "Foreign Assistance Act of 1948," Title 1, Sec. 124.
16. Senate Report No. 935, p. 19.

## CHAPTER ELEVEN

1. The Inter-American Treaty of Reciprocal Assistance.
2. We are indebted to Mr. Warren Manshel, Teaching Fellow and Tutor at Harvard University, on this point. See also S. B. Fay, "Union for Western Europe," *Current History* (March 1949), and Barbara Ward, *The West at Bay* (New York: Norton Press, 1949), p. 264.
3. Article IV of the Brussels Treaty.
4. Article VII.
5. *Building the Peace*, Foreign Affairs Outlines No. 19, Department of State (1949), p. 4.
6. *North Atlantic Treaty*, Hearings before the Senate Committee on Foreign Relations, pt. 1 (Washington, D.C., 1949), p. 8.
7. The text of the Resolution is included in the *Report of the Senate Foreign Relations Committee on the North Atlantic Treaty* (Washington, 1949), p. 5.
8. Sweden preferred its traditional policy of neutrality and Spain was not acceptable at that time.
9. *New York Times*, October 27, 1948.
10. See, for example, the articles by James Reston in the *New York Times*, which seemed to keep in step with the negotiations during the fall and winter of 1948-49.
11. See R. H. Heindel, T. V. Kalijarvi, and F. O. Wilcox, "The North Atlantic Treaty in the United States Senate," *American Journal of International Law*, XLIII (1949), 633-665. This is a most authoritative account of the formulation of the treaty. The authors feel that the negotiations were made difficult by the publicity (p. 645).
12. The Treaty was made public on March 18, signed on April 4, was given public hearings beginning April 27, was unanimously reported to the Senate on June 6, and received the Senate's consent on July 21, by one of the largest votes on record, 82-13.
13. James Reston, *New York Times*, January 13, 1949.
14. *North Atlantic Treaty*, Hearings, p. 25.

15. Public Law 75, 80th Congress, 1st Sess.
16. Heindel, Kalijarvi, and Wilcox, "The North Atlantic Treaty," p. 641.
17. The program was actually introduced informally during the hearings; *ibid.*, p. 642.
18. *North Atlantic Treaty*, Hearings, pp. 13-14 and 23.
19. *Report on the North Atlantic Treaty*, p. 25.
20. *North Atlantic Treaty*, Hearings, p. 47.
21. Senator Taft, however, noted that "there is no legal obligation to send American land soldiers to Europe." Address before the U.S. Senate, January 5, 1951, included in the *New York Times* of January 6, p. 4.
22. See the testimony of Secretary of Defense Marshall and General Bradley before the Foreign Relations and the Armed Services Committees on the *Military Situation in the Far East* including the circumstances of the removal of General MacArthur from his Far Eastern responsibilities, May and June 1951.
23. Address reported in the *New York Times* of January 16, 1951, p. 10.
24. See report of the President's press conference and excerpts from the speeches of Senators Connally and Lodge, *New York Times*, January 12, 1951.
25. Only two reservations were actually voted upon. Both were decisively defeated. See Heindel, Kalijarvi, and Wilcox, "The North Atlantic Treaty," pp. 659-661.
26. House Report No. 1265, Part I, *Supplemental Report of the Committee on Foreign Affairs on the Mutual Defense Assistance Act of 1949*, pp. 32-39.
27. *Mutual Defense Assistance Act of 1949*, Title I, Secs. 101 and 102.
28. *Supplemental Report . . . on the Mutual Defense Assistance Act of 1949*, p. 17.
29. *Extending the Mutual Defense Act of 1949*, House Report 2538, Foreign Affairs Committee, p. 8.
30. Report No. 1346, House of Representatives Conference Report on *The Mutual Defense Assistance Act of 1949*, pp. 1-2.
31. See Chapter III.

## CHAPTER TWELVE

1. In Mr. Sumner Welles's view, our policy has been characterized by "wishful thinking" and "plain ignorance"; see his introduction to J. K. Fairbank, *The United States and China*, p. xiii.
2. *Statement of Minority Members*, Committee on Foreign Relations, U.S. Senate, August 14, 1950.
3. Senator McMahon has urged that the hearings of executive sessions on China policy be published. Without the full record, final judgment on these matters cannot be passed.
4. Department of State *Bulletin*, vol. XXII, No. 550 (January 16, 1950); No. 551 (January 23, 1950); and No. 560 (March 27, 1950).

5. See Harold Lasswell, *National Security and Individual Freedom* (New York: McGraw-Hill, 1950), p. 35 and *passim*.

6. For comment on the events at Yalta, including the advice of the military leaders, see J. F. Byrnes, *Speaking Frankly* (New York: Harper, 1947), p. 43; Stimson and Bundy, *On Active Service in Peace and War*, pp. 618-619; E. R. Stettinius, Jr., *Roosevelt and the Russians* (New York: Doubleday, 1949), pp. 90-98; W. D. Leahy, *I Was There* (New York: Whittlesey House, 1950), pp. 292, 293, 316; R. E. Sherwood, *Roosevelt and Hopkins* (New York: Harper, 1948), chap. xxxiii; and the testimony of General Marshall and Secretary Acheson on the Military Situation in the Far East, and G. F. Kennan, *American Diplomacy, 1900-1950*, pp. 84-96.

7. A point brought out by Mr. Byrnes in his book, *Speaking Frankly*, p. 43.

8. See also *United States Relations with China* (White Paper), pp. 564-581.

9. Although the hearings were reported in the press, no committee report seems to have been printed. Hurley's statement, however, followed closely the substance of his letter of resignation to the President and is included in the White Paper, pp. 581-584. Moreover, his views were largely repeated in the hearings on the *Military Situation in the Far East* on June 21 and 22, 1951.

10. White Paper, p. 583.

11. For these views see the White Paper, pp. 73, 122-123.

12. For an excellent account see Stimson and Bundy, *On Active Service in Peace and War*, pp. 568-584.

13. Title IV of the Foreign Assistance Act of 1948. For much of the research on this program we are indebted to Mr. Thomas P. Shoemith, a student in the International Affairs Program, Harvard University.

14. White Paper, p. 606. These views were substantially repeated by Secretary of Defense Marshall in May 1951 before the Senate Armed Services and Foreign Relations Committees.

15. White Paper, pp. 686-688.

16. *Ibid.*, p. 264.

17. House Committee on Foreign Affairs, *Communism in China* (Washington, 1948), p. 2.

18. White Paper, pp. 832-834.

19. *Ibid.*, pp. 1047-1050.

20. *Ibid.*, p. 258.

21. *Ibid.*, p. 260.

22. James Reston, *New York Times*, February 8, 1948, Sec. IV, p. 3:3.

23. *Hearings before the Committee on Foreign Affairs, House of Representatives, 80th Congress, 2nd Session, on U.S. Foreign Policy for a Postwar Recovery Program*, pt. II, p. 1554.

24. See for example Cabell Phillips, *New York Times*, April 30, 1950, Sec. IV, p. 7, and the *Washington Post*, editorial, April 13, 1950, and article by Alfred Friendly, April 23, 1950. For further, if inconclusive, discussion see the remarks of Senator Morse and Secretary Acheson in the MacArthur hearings, *New York Times*, June 8, 1951. See also Charles Wertenbaker, "The

China Lobby," in the *Reporter*, vol. 6, nos. 8 and 9 (April 1952), which appeared after this volume went to press.

25. Public Law 472.

26. See the comments of Gabriel Almond, *The American People and Foreign Policy* (New York: Harcourt, Brace, 1950), page 85.

27. See the Secretary's introduction to the White Paper, p. x.

28. See Hull, *Memoirs*, pp. 1584 and 1596. President Roosevelt at one time proposed an international trusteeship for Korea.

29. Secretary Acheson before the National Press Club, Washington, D.C., January 12, 1950, Department of State, Bulletin, XXII, No. 551 (January 23, 1950).

30. Other measures proposed by the United States in line with this policy were the establishment of the Interim Committee, the removal of the veto from decisions dealing with peaceful settlement and membership, and the placing of the Greek case before the General Assembly.

31. Department of State, *Bulletin* (January 23, 1950), p. 116.

32. For a full statement of the Administration's position see the testimony of Mr. Marshall, the Joint Chiefs of Staff, and Mr. Acheson, May 3-31, 1951, before the Senate Foreign Relations and Armed Services Committees.

33. Address to the American Newspaper Guild, June 29, 1951.

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1. Hull, *Memoirs*, pp. 1690-1692.

2. Arthur N. Holcombe, *Our More Perfect Union* (Cambridge: Harvard University Press, 1950), p. 252.

3. For a detailed analysis see a report of the Committee on Political Parties, "Toward a More Responsible Two-Party System," *American Political Science Review*, XLIV (1950), Suppl., No. 3, part II.

4. Hull, *Memoirs*, p. 1690.

5. For a contrary view see Felix Morley, *The Foreign Policy of the United States* (New York: Knopf, 1951, introduction).

6. "Senator Vandenberg issued a statement that he wanted to cooperate with the administration but he could cooperate with only one Secretary of State at a time." Byrnes, *Speaking Frankly*, p. 239.

7. Hamilton Fish Armstrong, "Foreign Policy and Party Politics," *The Atlantic Monthly*, CLXXIX (April 1947), p. 63.

8. R. A. Dahl, *Congress and Foreign Policy* (New York: Harcourt, Brace, 1950), pp. 169-170.

9. Finletter, *Can Representative Government Do the Job?* (New York: Reynal and Hitchcock, 1945), Corwin, *The President: Office and Powers*, pp. 353-364.

10. Professor Corwin suggests that the "President shall construct his Cabinet from a joint legislative council to be created by the two houses of Congress and to contain its leading members," *op. cit.*, p. 361.

11. See Don K. Price, *The New Dimension of Diplomacy* (New York: Woodrow Wilson Foundation, 1951), pp. 23-24.
12. W. Y. Elliott, *The Need for Constitutional Reform* (New York: McGraw-Hill, 1935), pp. 9-10, 27-40. This proposal is intended to be buttressed by other important suggestions. See also Finletter, *Can Representative Government do the Job?*, chap. xi.
13. J. M. Burns, *Congress on Trial* (New York: Harper, 1949), p. 151.
14. Estes Kefauver and Jack Levin, *A Twentieth Century Congress* (New York: Duel, Sloan, and Pearce, 1947), chap. vi.
15. Dahl, *Congress and Foreign Policy*, p. 225.
16. Colegrove, *The American Senate and World Peace*, p. 19.
17. For a discussion of executive agreements see McClure, *International Executive Agreements*, and Pliske, *Conduct of American Diplomacy*, chap. xi.

## CHAPTER FOURTEEN

1. Difficult problems would remain, however. For a full discussion see the Brookings Institution, *The Administration of Foreign Affairs and Overseas Operations* (Washington: Government Printing Office, 1951), chaps. iv and vi.
2. This plan affects many matters in addition to foreign policy; see W. E. Binkley and M. C. Moos, *A Grammar of American Politics* (New York: Knopf, 1949), pp. 294-297.
3. See H. M. Somers, *Presidential Agency: The Office of War Mobilization and Reconversion* (Cambridge: Harvard University Press, 1950) for an account of the development of this idea, particularly chap. vii.
4. *New York Times*, November 25, 1951, p. 6 E.
5. H. M. Somers, *The Executive Office of the President*, unpublished monograph for the Brookings Institution, Washington, D.C., May 1951, pp. 28-29.
6. Somers, *Presidential Agency*, p. 211.
7. See the text of the President's statement, *New York Times*, October 23, 1951.
8. Henry Hazlitt, *A New Constitution Now* (New York: Whittlesey House, 1942); Kenneth Colegrove, *The American Senate and World Peace*; T. K. Finletter, *Can Representative Government Do the Job?*; G. B. Galloway, *Congress at the Crossroads* (New York: Crowell, 1946); Burns, *Congress on Trial*; Dahl, *Congress and Foreign Policy*.
9. For a thorough discussion of this problem, see Galloway, *Congress at the Crossroads*, chap. iii.
10. Senate Foreign Relations Committee, *Sub-Committees for Consultation Purposes* (Washington, June 1950).
11. Dahl, *Congress and Foreign Policy*, p. 147.
12. D. K. Price, *The New Dimension of Diplomacy, The Organization of the United States Government for Its Role in World Affairs* (New York: Woodrow Wilson Foundation, 1951), pp. 21-24.
13. Burns, *Congress on Trial*, p. 193.
14. Kennan, *American Diplomacy, 1900-1950*, p. 73.





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